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**NEW YORK STATE**

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**REGISTER**

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- Enforcement of Social Distancing Measures
- Confirmatory COVID-19 and Influenza Testing

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State agencies must specify in each notice which proposes a rule the last date on which they will accept public comment. Agencies must always accept public comment: for a minimum of 60 days following publication in the *Register* of a Notice of Proposed Rule Making, or a Notice of Emergency Adoption and Proposed Rule Making; and for 45 days after publication of a Notice of Revised Rule Making, or a Notice of Emergency Adoption and Revised Rule Making in the *Register*. When a public hearing is required by statute, the hearing cannot be held until 60 days after publication of the notice, and comments must be accepted for at least 5 days after the last required hearing. When the public comment period ends on a Saturday, Sunday or legal holiday, agencies must accept comment through the close of business on the next succeeding workday.

***For notices published in this issue:***

- the 60-day period expires on February 14, 2021
- the 45-day period expires on January 30, 2021
- the 30-day period expires on January 15, 2021

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# NEW YORK STATE REGISTER

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## Be a part of the rule making process!

The public is encouraged to comment on any of the proposed rules appearing in this issue. Comments must be made in writing and must be submitted to the agency that is proposing the rule. Address your comments to the agency representative whose name and address are printed in the notice of rule making. No special form is required; a handwritten letter will do. Individuals who access the online *Register* ([www.dos.ny.gov](http://www.dos.ny.gov)) may send public comment via electronic mail to those recipients who provide an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings.

To be considered, comments should reach the agency before expiration of the public comment period. The law provides for a minimum 60-day public comment period after publication in the *Register* of every Notice of Proposed Rule Making, and a 45-day public comment period for every Notice of Revised Rule Making. If a public hearing is required by statute, public comments are accepted for at least five days after the last such hearing. Agencies are also required to specify in each notice the last date on which they will accept public comment.

When a time frame calculation ends on a Saturday or Sunday, the agency accepts public comment through the following Monday; when calculation ends on a holiday, public comment will be accepted through the following workday. Agencies cannot take action to adopt until the day after expiration of the public comment period.

The Administrative Regulations Review Commission (ARRC) reviews newly proposed regulations to examine issues of compliance with legislative intent, impact on the economy, and impact on affected parties. In addition to sending comments or recommendations to the agency, please do not hesitate to transmit your views to ARRC:

Administrative Regulations Review Commission  
State Capitol  
Albany, NY 12247  
Telephone: (518) 455-5091 or 455-2731

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Each paid subscription to the *New York State Register* includes one weekly issue for a full year and four "Quarterly Index" issues. The Quarterly is a cumulative list of actions that shows the status of every rule making action in progress or initiated within a calendar year.

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KEY: (P) Proposal; (RP) Revised Proposal; (E) Emergency; (EP) Emergency and Proposal; (A) Adoption; (AA) Amended Adoption; (W) Withdrawal

Individuals may send public comment via electronic mail to those recipients who provided an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings. Choose pertinent issue of the *Register* and follow the procedures on the website ([www.dos.ny.gov](http://www.dos.ny.gov))

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# RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency  
01 -the *State Register* issue number  
96 -the year  
00001 -the Department of State number, assigned upon receipt of notice.  
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

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## Department of Corrections and Community Supervision

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### NOTICE OF ADOPTION

#### Special Housing Units (SHU)

**I.D. No.** CCS-35-19-00001-A

**Filing No.** 875

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of Parts 255, 256, 315, 316, 319; amendment of sections 1.5, 250.2, 254.1, 260.4, 270.2, 270.3, 301.1, 301.2, 301.4, 301.6, 304.1, 304.2, 305.2; repeal of Part 321 of Title 7 NYCRR.

**Statutory authority:** Correction Law, section 70

**Subject:** Special Housing Units (SHU).

**Purpose:** Updated to comply with new laws regarding special housing units, and solitary confinement use.

**Substance of final rule:** The Department of Corrections and Community Supervision is amending, adding, or rescinding several sections in Chapter I, Part 1 and Chapter V, 7 NYCRR “Special Housing Units” Parts 250-321. Revisions have been made in order to be in compliance with new laws regarding special housing units and solitary confinement use. Some revisions are non-substantive and are being made to improve grammar, correct gender specificity, revise an employee job title, and to improve clarity. A summary of the more substantive amendments follows:

All references to Adolescent Offenders were removed throughout the regulations.

Five new Parts were added to include Part 255. Miscellaneous Provi-

sions, Part 256. Alternative Disciplinary Resolution, Part 315. Residential Rehabilitation Units, Part 316. Step Down Units, and Part 319. Mental Illness.

Amend Section 1.5 to add the following subsections and define new terms being added to the regulations: Section 1.5(u) to define what “Special Populations” means, Section 1.5(v) to define what “Segregated Confinement” means, Section 1.5(w) to define what “Administrative Segregation” means, Section 1.5(x) to define what “Keeplock Confinement” means.

Add new subsection 250.2(a) to define how the department will eliminate, mitigate, and respond to disparities and ensure a fair and equitable distribution of benefits and burdens in placing incarcerated individuals in housing unit assignments, institutional work assignments, and programs; and the proper post release supervision of parolees to supervision level, violation processes, and early discharge/merit terminations, as well as ensuring administrative processes involving incarcerated individuals or parolees subject to discipline/grievances are conducted fairly.

Add new subsection 250.2(e) to further define what kinds of behaviors will warrant an incarcerated individual to be placed in Segregated Confinement.

Amend Section 254.1 to state that prior to presiding over a Superintendent’s Hearing, the hearing officer shall receive training on relevant topics, including implicit bias and procedural due process rights.

Add new Section 255.01 which states that incarcerated individuals serving a disciplinary sanction resulting in placement within Segregated Confinement or Keeplock Confinement shall be eligible for a reduction in sanction duration if the infraction does not involve certain disciplinary infractions and how that time will be awarded.

Add new Section 255.02 which states time frames for how incarcerated individuals placed in Residential Rehabilitation or Step-Down Units shall be released to general confinement and how the remainder of the sanction, if any, will be suspended as long as the incarcerated individual does not engage in any sanctionable conduct during the duration of the suspended sanction.

Add new Section 255.03 which describes the Progressive Inmate Movement System (PIMS), a behavioral incentive program for incarcerated individuals assigned to Special Housing Units or Residential Rehabilitation Units.

Add new Section 255.04 which describes the preferred methods of how staff will respond to individuals housed in a Special Housing, Residential Rehabilitation, or Step-Down Unit when they engage in further misbehavior, and when formal misbehavior reports should be used.

Add new Section 255.05 which states that all staff assigned to Special Housing, Residential Rehabilitation, or Step-Down Units shall receive specialized training in dealing with incarcerated individuals assigned to those units.

Add new Section 255.06 which states that the department shall publish monthly reports on its website of the total number of incarcerated individuals who are in Segregated Confinement; including the total number of incarcerated individuals who are in a Residential Rehabilitation Unit and the total number of incarcerated individuals in a Step-Down Unit on the first day of each month.

Add new Section 255.07 which states that following a Disciplinary Hearing or an Administrative Segregation proceeding, the department will seek to establish or designate a unit or housing location for the placement of an incarcerated individual, the duration of the placement, and the requirements for programming, treatment, and services which shall be governed by the applicable provision of this Title.

New Section 256.1 explains the Alternative Disciplinary Resolution (ADR) pilot program for incarcerated individuals who are awaiting a Tier II Disciplinary Hearing (Part 253) or a Tier III Superintendent’s Hearing (Part 254) for non-serious offenses. An incarcerated individual’s participation in the program shall be voluntary and he or she can reject an offer and proceed to a hearing.

Amend Section 260.4 to clarify that an incarcerated individual confined

after being found guilty at a Superintendent's Hearing for a Tier III offense does not automatically forfeit or disallow any good behavior allowance, and if they complete their programming there shall be a presumption that recommended loss of good time be restored, subject to committee review and in accordance with provisions and requirements set forth in this Subchapter.

Section 270.2 was updated to establish disciplinary sanction guidelines which may include sanction ranges for certain charges based upon the level of seriousness of the offense.

In Section 270.2(B), Tier III classifications have been removed from the following infractions: 100.14, 103.10, 103.20, 104.13, 105.10, 105.11, 106.10, 106.11, 107.20, 107.21, 108.11, 108.12, 108.14, 109.10, 109.11, 109.12, 109.13, 109.15, 110.21, 113.14, 113.15, 113.21, 113.22, 113.24, 113.27, 113.29, 113.30, 116.11, 118.20, 118.31, 120.20, 121.11, 121.12, 121.13, 121.14, 122.10, 180.11, 180.12, 180.17, 180.18, and 181.10.

In Section 270.2(B), the following sections have been rescinded:  
Section 270.2 (B)(11)(vi) and (vii), Inmate Identification and Grooming;

Section 270.2(B)(14)(iii) and (xv) Alcohol/Intoxicant and Drug Possession;

Section 270.2(B)(19)(vii), Creating a Fire, Health, or Safety Hazard;  
Section 270.2(B)(21)(ii), Gambling;

Section 270.2(B)(25)(i), (ii), (v), (vi), and (vii), Mess hall or Dining Areas;

Section 270.2(B)(24), Self-Mutilation;  
Section 270.2(B)(26)(vi), Miscellaneous Rules and Regulations.

In Section 270.2(B), the following section has been added:  
Section 270.2(B)(14)(xi) and (xxii), Alcohol/Intoxicant;

Section 270.2(B)(14)(xxiii) and (xxiv), Narcotics, Controlled Substances and Marijuana;

Amend Section 270.3 to include that the facility review officer shall review the misbehavior report to consider the seriousness of the alleged violations and refer the report to the lowest appropriate disciplinary body (Tier Level) for action.

Amend Section 301.1 to state that no incarcerated individual may be placed in Segregated Confinement as a result of a Disciplinary Hearing, Administrative Segregation, Protective Custody, Keeplock, or other admissions for longer than necessary and: (i) effective on and after October 1, 2022, for no more than 90 days; (ii) effective on and after April 1, 2023, for no more than 60 days; and (iii) effective on and after October 1, 2023, for no more than 30 days. Upon reaching this limit, the incarcerated individual must be released from Segregated Confinement or diverted to a Residential Rehabilitation Unit or a Step-Down Unit.

Amend Section 301.2 to state what behavior will violate institutional rules and regulations involving conduct that poses an unreasonable risk to the health, safety or security of staff, incarcerated individuals, or security of the facility by an incarcerated individual requiring that they be placed in Segregated Confinement.

Amend Section 301.4 to update this section as it applies to the involuntary removal of an incarcerated individual from general confinement and placement in a Special Housing Unit or a Residential Rehabilitation Unit based upon a determination that the individual's continued presence in general population would pose an unreasonable and demonstrable risk to the safety and security of staff, incarcerated individuals, the facility or would present an unreasonable risk of escape.

Amend Section 301.6 to add that incarcerated individuals assigned to Keeplock status in a Special Housing Unit pursuant to this section shall either be released from Segregated Confinement or diverted to a Residential Rehabilitation Unit or a Step-Down Unit no later than the time limitations set forth in 7 NYCRR § 301.1 and that they will be credited at the rate of three days for every two days served.

Amend Section 304.1 to define provisions of essential services, which shall not be denied, restricted, or limited as a means of discipline or punishment to incarcerated individuals.

Amend Section 304.2 to define "Special Management Meal," and explain when a Special Management Meal would be appropriate.

Amend Section 305.2 to clarify when an incarcerated individual may be denied, restricted, or limited to the provisions of an essential service.

Addition of new Part 315.1 defines a Residential Rehabilitation Unit and the purpose it serves.

Addition of new Part 315.2 to state admission and programming requirements for the Residential Rehabilitation Unit.

Addition of new Part 316.1 to state the purpose that the Step-Down Unit serves.

Addition of new Part 316.2 to define a Step-Down Unit.

Addition of new Part 316.3 to state admission requirements for the Step-Down Unit.

Addition of new Part 319.1 to state the effective date.

Addition of new Part 319.2 to state that the purpose is to help ensure that incarcerated individuals with serious mental illness who are placed in

Segregated Confinement for disciplinary purposes receive timely assessments and a heightened level of mental health care and, absent exceptional circumstances, are placed in a residential mental health treatment unit.

Addition of new Part 319.3 to state the admission requirements for screening for Mental Illness and the placement of those with mental illness into Segregated Confinement.

Part 321, Juvenile Separation Units, has been rescinded.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 255.01, 270.2(b)(14) and 301.4.

**Revised rule making(s) were previously published in the State Register on August 28, 2019 and September 16, 2020.**

**Text of rule and any required statements and analyses may be obtained from:** Cathy Sheehan, Acting Deputy Commissioner and Counsel, NYS Department of Corrections and Community Supervision, 1220 Washington Avenue, Harriman State Campus, Albany, NY 12226-2050, (518) 457-4951, email: Rules@DOCCS.ny.gov

#### **Revised Regulatory Impact Statement**

##### **1. Statutory Authority:**

Article 6, section 112, subdivision 1 of the Correction Law provides the commissioner of corrections and community supervision with the superintendence, management and control of the correctional facilities in the department and of the incarcerated individuals confined therein, and of all matters relating to the government, discipline, policing, contracts and fiscal concerns thereof. In this regard, the commissioner is authorized to make rules and regulations for the government, housing and discipline for each correctional facility and to cause such rules and regulations to be recorded by the superintendent of each facility.

##### **2. Legislative Objectives:**

To dramatically reduce the use of solitary confinement in correctional facilities and to further help to correct inequities and end inhumane practices in our criminal justice system.

##### **3. Needs and Benefits:**

The Governor and the legislature intended to correct inequities and end inhumane practices in our criminal justice system but were not able to agree how to achieve these objectives during the legislative session. In response, the leaders of the Senate and Assembly and the Governor have jointly agreed to achieve these objectives by the means set forth in these new and amended regulations.

##### **4. Costs:**

(a) This proposed rulemaking imposes no costs on any local agency.  
(b) As the proposed rulemaking does not apply to private parties, no costs are imposed on private parties.

(c) DOCCS will assume 69 million in infrastructure and associated costs provided for in the 2020 fiscal year budget and an additional estimated 35 million for personnel and non-personnel services in the out-years.

##### **5. Local Government Mandates:**

This rulemaking imposes no program, service, duty or responsibility on any county, city, town, village, school district, or other special district. It applies only to NYS DOCCS.

##### **6. Paperwork:**

This rulemaking adds a reporting requirement pursuant to § 255.06 that DOCCS will conspicuously publish monthly reports on its website of the total number of incarcerated individuals who are in a residential rehabilitation unit and in a step-down unit on the first day of each month. Also, DOCCS will publish an annual cumulative report of the total number of incarcerated individuals who were in a residential rehabilitation unit and in a step-down unit for the preceding year, which will include the average length of stay in each unit.

##### **7. Duplication:**

There is no overlap or conflict with any other legal requirements of the State or Federal government.

##### **8. Alternatives:**

There are no alternatives.

##### **9. Federal Standards:**

There are no federal standards that apply to the proposed rulemaking.

##### **10. Compliance Schedule:**

Compliance will be achieved 180-days from adoption inclusive of any dates contained in the regulations.

#### **Revised Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses or local governments. This proposal provides consistency between Departmental internal policy and the corresponding sections of 7NYCRR by adding to and amending the applicable sections. It also serves to clarify and expand the current policies and procedures, and improves grammar.

#### **Revised Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis is not being submitted with this notice since the proposed rule will have no impact upon rural areas, nor does the

proposed rule impose any reporting, recordkeeping or other compliance requirements upon rural areas. This proposal provides consistency between Departmental internal policy and the corresponding sections of 7NYCRR by adding to and amending the applicable sections. It also serves to clarify and expand the current policies and procedures and improves grammar.

#### **Revised Job Impact Statement**

A Job Impact Statement is not being submitted with this notice, for the proposed rule will have no adverse impact upon jobs or employment opportunities, conversely, the employment opportunities will increase employment opportunities, nor does the proposed rule impose any reporting, recordkeeping or other compliance requirements upon employers. This proposal provides consistency between Departmental internal policy and the corresponding sections of 7NYCRR by adding to and amending the applicable sections. It also serves to clarify and expand the current policies and procedures, and improves grammar.

#### **Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

During the official public comment period, the New York State Department of Corrections and Community Supervision (DOCCS) received six written comments relative to the proposed regulatory amendments to Title 7: Correctional Services governing special housing units in correctional facilities and inmate behavior. Three of the letters were from advocacy groups, two letters were from Labor Unions and the last letter was submitted by a member of the Assembly. The proposed regulations were drafted in response to, and in accordance with, the June 20, 2019 Joint Agreement (“Joint Agreement”) among the Governor, the Majority Leader and the Speaker. The Joint Agreement’s stated purpose was to overhaul New York State’s segregated confinement practices by, among other things, prohibiting the placement of vulnerable populations in segregated confinement, reducing the maximum duration of segregated confinement and limiting segregated confinement to individuals whose conduct poses an unreasonable risk to the health, safety or security of the facilities, the staff, and the incarcerated individuals. The proposed regulations not only incorporate each of the terms of the Joint Agreement, but they also include additional provisions to ensure a fair, equitable and humane disciplinary system.

Definitions: (1.5)

“Special Population”

The Department received several comments regarding the definition of “Special populations” which provides what populations are prohibited from being placed in segregated confinement. Several requests were made for the definition to be expanded to include more classes of individuals such as: individuals over 55 years of age; individuals under 25 years of age; individuals whose IQ is 69 or lower or who have no higher than a 3rd grade reading level; individuals who sight or hearing impairment substantially limits one or more major life activities and meets the definition of legal blindness, severe visual impairment, deaf or hard of hearing set forth in directive 2612(II); individuals diagnosed with post-traumatic stress disorder; individuals diagnosed with a traumatic brain injury, and those suffering any mental, physical or cognitive disability. The Department also received several comments specific to the section of the definition regarding individuals who suffer a disability which impairs their ability to provide self-care within a correctional facility and argue this qualifier limits who may be considered a special population.

The definition of “Special populations” incorporated provisions from the definition of disability from Executive law § 292 (21) (a). The broad definition of disability provided in Executive law § 292 (21) (a) coupled with the qualifier that said disability impairs their ability to provide self-care within a correctional facility provides sufficient guidance and flexibility for determining which individuals should be considered a special population. The Department has considered the additional suggested classes and has determined that the current definition appropriately includes all classes of individuals that should be considered a special population for the purposes of these regulations. Accordingly, no modification to the regulation has been made.

“Administrative Segregation”

The Department received several comments from advocacy groups requesting clarification on what constitutes an “unreasonable and demonstrable risk” that would result in “involuntary removal” under the Administrative Segregation definition. The Department has determined that the current definition provides sufficient guidance and flexibility for determining whether an individual must be placed in administrative segregation. Accordingly, no change to the regulation has been made.

SHU Eligible Misconduct: (250.2(3))

The Department received numerous comments from advocacy groups

stating the grounds an individual may be placed in segregated confinement are too broad. Specifically, they state it allows for individuals to be placed in segregated confinement for non-violent conduct. Conversely, the Department received comments strongly opposing the limited number of grounds an individual may be placed in segregated confinement arguing such restrictions will create safety concerns and undermine the deterring effect of misbehavior sanctions.

The grounds for which an individual may be placed in segregated confinement were decided in accordance with the Joint Agreement. The conduct that can place an individual in segregated confinement carefully balances the Department’s goal of providing more humane special housing conditions, while protecting staff, the individuals under the care and custody of the Department and maintaining the safety and security of the facility. Accordingly, no change to the regulation has been made.

Administrative Segregation: (301.4)

The Department received a comment urging several modifications to the regulations regarding administrative segregation. The comment received objects to the Department’s removal of a Tier 3 hearing pursuant to 7 NYCRR part 254, requests that the Department develop objective criteria and measures to determine when an individual presents a risk to the safety and security of a facility and, provide individuals in administrative segregation with concrete goals and actions that should be taken to meet these goals. A comment was also received objecting to the language allowing staff to evaluate and recommend an individual be removed from administrative segregation “[a]t any time deemed appropriate” as arbitrary and detrimental in practice for staff and incarcerated individuals.

When amending section 301.4, reference to Tier 3 hearings pursuant to 7 NYCRR part 254 was inadvertently not included in sub section (b) when removed from sub section (a) as a drafting oversight. Additionally, redundant language was removed from sub section (d). The Department has considered the additional comments and determined the regulations as written provide sufficient due process and guidance regarding when an individual should be removed from administrative segregation. Accordingly, only technical changes have been made.

Keeplock Confinement: (301.1)

Several comments were requesting clarification regarding Keeplock confinement. Specifically, commenters are confused about the difference between Keeplock served in segregated confinement and Keeplock served in cell. Clarification is requested on what misconduct can result in Keeplock in cell, vs. Keeplock in segregated confinement; the privileges available in Keeplock in cell, vs. Keeplock in segregated confinement and what time limits apply to an individual serving in Keeplock in cell, vs. Keeplock in segregated confinement. Additionally, there was a comment requesting clarification if an individual can serve Keeplock in a Residential Rehabilitation Unit (“RRU”).

Keeplock confinement is a status that can be served in a variety of locations. Placement for Keeplock confinement is dependent upon the operational and logistical needs and availability within the facility. The time limits set forth in 7 NYCRR § 301.1 are intended to reduce the time individuals spend in segregated confinement – regardless of how they got there. As such, individuals in segregated confinement must be released from segregated confinement or diverted to an RRU or Step-Down Unit (“SDU”) no later than the applicable time limitation. Individuals serving Keeplock confinement in a general population cell or dorm are not in segregated confinement and, as such, those time limits do not apply. Those individuals do, however, benefit from the out-of-cell time allotted individuals in an RRU as well as the ability to maintain their property among other privileges. Time limits only apply to individuals in segregated confinement as defined in Correction Law § 2(23) and proposed Title 7 Chapter 1 Section 1.5(v). They do not apply to Keeplock confinement being served in a location not defined as segregated confinement. Keeplock confinement is less restrictive and affords more privileges than segregated confinement. Accordingly, no change to the regulation has been made.

Step-Down Units (SDU): (316)

The Department received a comment requesting clarification on what individuals will qualify for placement in a SDU. The Department has determined the regulations provide sufficient guidance on what individuals are appropriate for placement in an SDU. Accordingly, no change to the regulation has been made.

A comment was also received expressing concerns about individuals in SDUs being permitted to move freely between their cells and during programming unrestrained. Conversely, a comment was received arguing there should be a prohibition on the use of restraints entirely. The regulations as written are pursuant to the Joint Agreement and balance the Department’s goal of providing more humane conditions in special housing units while ensuring the safety and security of the facility, other incarcerated individuals and staff.

Limits on Transfers to Segregated Confinement from RRU and SDU: (315.1 (c), 316.3 (d))

The Department received several comments arguing the circumstances allowing individuals in an RRU or SDU to be transferred to segregated confinement are too vague. These provisions were incorporated pursuant to the Joint Agreement. The Department has determined the regulations are sufficiently narrow to ensure individuals are only transferred back to segregated confinement in the most limited circumstances. Accordingly, no changes to the regulations have been made.

The Department received a comment requesting individuals being transferred from a RRU or SDU to segregated confinement be granted a hearing within 72 hours of their transfer pursuant to procedures set forth in part 254, or, in the alternative, individuals should be returned to the RRU or SDU after 15 days in segregated confinement. Once the regulations are fully enacted, these individuals will be returned to the alternative units after 30 days. The Department has determined the regulations as written already provide sufficient oversight and review of determinations to place an individual in segregated confinement. Accordingly, no change to the regulation has been made.

#### General Policies on Discipline of Incarcerated Individuals: (250.2)

A comment was received requesting the Department to prohibit disciplinary sanctions for rule violations relating to acts of self-harm, including but not limited to destruction of state property, possession of a weapon or altered item, or creating a disturbance. Some time ago, the Department recognized the need to assist individuals struggling with mental health issues without the use of discipline. Accordingly, the Department removed self-harm from the list of disciplinary rules and stopped charging other violations when associated with an act of self-harm. However, a blanket ban on issuing misbehavior reports for violations as proposed in the comment would undermine staff's ability to maintain the safety and security of the facility. Accordingly, no change to the regulation has been made.

#### Time-Cuts: (255.01)

A comment was received urging the Department to provide greater time-cuts for individuals serving sanctions in segregated confinement or Keeplock confinement who do not receive subsequent tier II or III infractions to incentivize good behavior. A comment was also received stating the opposite, that time-cuts should not be available as they will reduce the deterring effects segregated confinement has on misbehavior and will embolden individuals to act out more. The Department believes that time-cuts are an incentive for good behavior. The Department has determined the current regulation appropriately incentivizes good behavior without undercutting the overall deterring effect the underlying sanction provides. Accordingly, no change to the regulation has been made.

#### Loss of Good Time: (260.4)

The Department received a comment urging the Department to adopt a provision that presumptively restores any recommended loss of good time at the time an individual successfully completes his or her rehabilitative program and returns to general confinement. The Commenter argues this should be done so it does not delay an individual's restoration of good time until the individual is eligible for parole or conditional release as proposed in the regulations.

The Department has considered the comment and determined the regulation provides the Department with the necessary oversight to ensure good time restoration is appropriately being granted. Accordingly, no change to the regulation has been made.

#### Release from Units and Suspension of Sanctions: (255.02)

The Department received a comment objecting to individuals being released from an RRU or SDU at the time their sanction is complete if they have not successfully completed programming. The Department has considered this comment and determined it will not hold individuals in RRUs or SDUs once they have served their disciplinary sanction solely because of programming unless they request to continue with their programming. Accordingly, no change to the regulation has been made.

#### Additional Misbehavior: (255.04)

The Department received a comment from one labor union objecting to the use of misbehavior reports as a last resort in special housing units, RRUs or SDUs. The commenter believes that without issuing misbehavior reports, individuals are more likely to misbehave without repercussions. The Department has considered these comments and determined de-escalation, withdrawal of incentives and conflict resolution with incarcerated individuals provide the necessary framework to curtail inmate misbehavior. Further, the Department has determined the regulations provide sufficient guidance to determine when a misbehavior report may be issued. Accordingly, no change to the regulation has been made.

#### Keeplock Confinement Time Cuts: (255.01 (c), 315.2 (e))

The Department received a request for clarification regarding time-cuts for individuals serving Keeplock sanctions in a special housing unit or alternative housing unit. An individual will automatically be credited a rate of three days served for every two days served, if they are serving their Keeplock sanction in a more restrictive environment such as a special housing unit or RRU. This provision was incorporated pursuant to the

Joint Agreement and was intended to acknowledge the difference between Keeplock confinement and segregated confinement. Accordingly, only technical changes were made to clarify that subsections (a) and (b) apply only to those who receive a special housing sanction.

#### Out-of-Cell Time: (315.2, 316.3)

The Department received several comments requesting additional out-of-cell time for individuals in segregated confinement, RRUs and SDUs. The Department also received a comment arguing that providing individuals the allotted out-of-cell time under the current regulations will result in staffing and scheduling problems. This provision was incorporated pursuant to the Joint Agreement and appropriately balances the Department's goal of providing individuals with additional out-of-cell time and the logistical needs to ensure the safety, security and good order of the facility. Accordingly, no change to the regulation has been made.

#### Most Congregate Setting Available: (315.1, 316.2)

The Department received several comments requesting clarification on the meaning of "most congregate setting available". Specifically, concerns were raised that this rule does not require individuals to receive congregate programming or activities. Comments received requested the Department to include language such as "Congregate programming, services, treatment, and/or meals." The Department received a comment requesting the following terms in this section be better defined: "out-of-cell", "setting" and "environment".

The Department also received a comment expressing concern that providing incarcerated individuals' out-of-cell time in the most congregate setting available will likely be dangerous and logistically difficult.

The Department has determined that the regulations as written appropriately balance the needs to provide individuals with the most congregate setting available based on the different infrastructure of each facility while ensuring the safety and security of staff, incarcerated individuals and the facility. Further, the Department has determined the regulation as written provides sufficient detail regarding what constitutes the most congregate setting available. Accordingly, no change to the regulation has been made.

#### Time-Limits Implementation: (301.1)

##### Time Limits on Segregated Confinement

The Department received several comments from advocacy groups and one elected official requesting the amount of time an individual can be placed in segregated confinement not to exceed 15 consecutive days. A comment received argues the regulations will continue to permit individuals to be housed in segregated confinement even after they meet the time caps provided in this regulation by removing an individual for segregated confinement for one day, and then sending them back, thereby circumventing the time caps. These comments call for the regulations to prohibit any individual being in segregated confinement for more than 20 days in any 60-day period to ensure people are not continually "cycled" into segregated confinement.

Additionally, advocacy groups requested all individuals be discharged from RRU, SDU or Keeplock confinement to general confinement within a year of entering the unit.

Conversely, the Department received comments opposing the reductions in the maximum time an incarcerated individual may spend in segregated confinement because those reductions will also reduce the deterrent effect segregated confinement sanctions can have on inmate misconduct.

The time limits provided for in the regulations were decided in accordance with the Joint Agreement. The current regulations further the Department's objectives of creating more humane conditions in special housing units, while retaining the value sanctions provide in deterring misbehavior in the Correctional Facilities. Further, the regulations are narrowly written to only allow individuals to be placed in segregated confinement in limited circumstances. Accordingly, no change to the regulation has been made.

#### Implementation timeline: (301.1)

The Department received several comments from advocacy groups and one elected official urging the Department to implement the regulations on an expedited timeline.

The regulations require the Department to build and redesign its infrastructure, hire and train staff, and develop and expand programs in order to advance the Department's objectives of creating more humane conditions in special housing units. Additionally, due to the Covid-19 pandemic, the Department must carry out the above duties, while ensuring the safety of its staff and incarcerated population by following CDC recommendations, such as social distancing, proper sanitization and limits on maximum occupancy. The pandemic also has delayed the construction schedule for the RRUs. It is for these reasons that the regulations have a delayed implementation date and implement a gradual and systematic reduction in the maximum length of time an incarcerated individual may remain in segregated confinement prior to his or her release or diversion. Accordingly, no change to the regulation has been made.

#### Tier Levels: (270.2)

The Department received several comments commending the removal of certain misconduct from Tier 3 discipline.

Essential Services: (304.1)

A comment was received objecting to the use of special management meals and deprivation to essential services and argues services should only be denied when providing them would "create a significant and unreasonable risk to the safety and security of incarcerated persons, staff, or the facility." A comment was also received stating individuals should be provided the same food as the general population.

The Department has determined the regulation as written provides incarcerated individuals with meaningful access to essential services, while providing the flexibility needed by staff to ensure the safety, security and good order of the facility. Accordingly, no change to the regulation has been made.

Mental Illness: (319)

The Department received a comment concerned that individuals will learn they cannot be placed into segregated confinement if they have a serious mental illness and will pretend to be seriously ill. Additionally, placing inmates willing to violate facility policy in a less secure housing poses a significant security risk. Another comment was received that objects to the effective date of this provision and argues it should be shortened. Although several of these provisions are already being followed, the Department has determined the effective date of these provisions is necessary to allow for the completion of the RRUs and SDUs to provide additional housing for mentally ill individuals who commit disciplinary infractions. Accordingly, no change to the regulation has been made.

Staff Training: (250.2, 255.05)

The Department received several comments from advocacy groups and one labor union regarding the training staff will receive under the proposed regulations. Specifically, the comments argue the following should be better detailed by the regulations: what constitutes on-going training, the amount of staff training that will be provided by the Department, the content of the training that will be provided, and additional guidance on how these new units will be run. The Department also received comments urging Superintendents to have authority over staffing decisions of RRUs and SDUs within their facilities and request these units be staffed with licensed clinical social workers and New York State Education Department (NYSED) certified teachers. Further, NYSED should conduct annual review of the educational programs, staff and classrooms.

The Department's intention is for all units to be staffed with licensed teachers and a licensed master social worker. The Department has determined the regulations provide sufficient detail regarding staffing, training subjects and expectations. Accordingly, no change to the regulation has been made. The Department will provide security staff with further guidance through departmental policy and directives.

Alternative Dispute Resolution (ADR) Pilot Program: (256.1)

The Department received comments requesting additional information about the proposed ADR pilot program. Specifically, requests for additional information on how the Department decided to pursue an ADR pilot program, the pilot program's intended length, oversight of the pilot program, and the reporting requirements in terms of inmate participation, average length of initial sanction, and average length of settled sanction.

This pilot program is a work in progress, and currently, there are no final procedures or directives regarding this program. Accordingly, no change to the regulation has been made.

Reporting and Oversight: (255.06)

Comments were received arguing the reporting requirements are not sufficient and request DOCCS to report data around Keeplock confinement, as well as, information surrounding individuals in segregated confinement or RRUs, such as age, race, gender, mental health treatment level, need/participating in substance abuse programs, pregnancy status, continuous length of stay in residential treatment units, number of days in segregated confinement, a list of all incidents resulting in sanctions of segregated confinement by facility and date of occurrence, the number of individuals in each unit, inmate-on-staff assaults, inmate-on-inmate assaults, and recidivism rates of individuals in SHU and SHU alternative units.

A comment was received requesting the NYS Justice Center for the Protection of People with Special Needs and the State Commission of Correction have authority to assess the implementation of the new regulations.

The Department has determined the regulations as drafted already require the Department to report the number of individuals in segregated confinement and alternative programs. Additionally, both the NYS Justice Center and State Commission of Correction already have oversight authority of DOCCS' facilities. The regulations as drafted contain sufficient reporting requirements and oversight by outside agencies. Accordingly, no change to the regulation has been made.

Adolescent Offender Separation Units:

The Department received several comments regarding the use of Adolescent Offenders and Adolescent Offender Separation Units. All references to adolescent offenders have been removed pursuant to the 2020/2021 Budget Bill, Part G, that transferred all individuals under the age of 18 from the Department to the Office of Children and Family Services.

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## Department of Economic Development

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### NOTICE OF ADOPTION

#### Excelsior Jobs Program

**I.D. No.** EDV-37-20-00003-A

**Filing No.** 766

**Filing Date:** 2020-11-25

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of Parts 190, 191 and 193 of Title 5 NYCRR.

**Statutory authority:** Economic Development Law, art. 17; L. 2020, ch. 59

**Subject:** Excelsior Jobs program.

**Purpose:** Update regulations to include newly enhanced tax credits for green economy projects.

**Text or summary was published** in the September 16, 2020 issue of the Register, I.D. No. EDV-37-20-00003-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Thomas Regan, Department of Economic Development, 625 Broadway, Albany NY 12245, (518) 292-5123, email: thomas.regan@esd.ny.gov

#### **Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

The agency received no public comment.

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## Department of Environmental Conservation

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### NOTICE OF ADOPTION

#### CO2 Budget Trading Program

**I.D. No.** ENV-17-20-00007-A

**Filing No.** 861

**Filing Date:** 2020-12-01

**Effective Date:** 30 days after filing

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of Parts 200 and 242 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 1-0101, 1-0303, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 71-2103 and 71-2105

**Subject:** CO2 Budget trading program.

**Purpose:** To lower the emissions cap established under Part 242.

**Substance of final rule:** The New York State CO2 Budget Trading Program, 6 NYCRR Part 242 (CO2 Budget Trading Program or Part 242) is designed to reduce anthropogenic emissions of carbon dioxide (CO2), a greenhouse gas (GHG), from CO2 budget sources in an economically efficient manner. The revisions to Part 242 include a reduction in the annual CO2 emission budgets, the creation of an Emissions Containment Reserve

(ECR), the elimination of two offset categories, and an expansion of applicability to certain units that serve an electricity generator with a nameplate capacity equal to or greater than 15 MW.

The revisions to Part 242 will reduce the annual base budgets by nearly 30 percent for the period 2020-2030. In particular, the revisions to Section 242-5.1 establish that, for allocation year 2021, the Statewide CO2 Budget Trading Program base budget will be 29,056,270 tons, decreasing thereafter as follows: to 28,175,777 tons in 2022, to 27,295,284 tons in 2023, to 26,414,791 in 2024, to 25,534,298 tons in 2025, to 24,653,805 tons in 2026, to 23,773,312 tons in 2027.

In addition to the reduction in annual CO2 Budget Trading Program base budgets, the revisions to Part 242 also include a third adjustment for banked allowances. The Third Adjustment for Banked Allowances will adjust the budget for 100 percent of the pre-2021 vintage allowances held by market participants as of the end of 2020, that are in excess of the total quantity of 2018, 2019, and 2020 emissions. The third adjustment would be implemented over the five-year period of 2021-2025, after the size of the 2020 vintage private bank is determined.

The Program revisions retain the Cost Containment Reserve (CCR), which helps provide additional flexibility and cost containment for the Program. While the revisions to the Program retain the CCR, the revisions would modify the CCR trigger price and the maximum amount of CCR allowances available at auction each year. In particular, the CCR allowances will be triggered and released at auctions at \$10.77 in 2020 and will increase to \$13.00 starting in 2021. Each year after 2021, the CCR trigger price will increase by seven percent. If the trigger price is reached, up to 10 million additional CCR allowances will be available regionally for purchase at auction in 2020. Beginning in 2021, up to 10 percent of the regional cap of additional CCR allowances will be available for purchase at auction if the CCR trigger price is reached.

The revisions to Part 242 also include the creation of the Emissions Containment Reserve (ECR), which will also help secure additional emissions reductions if prices fall below established ECR trigger prices. The ECR will only be triggered, and allowances withheld from auctions, if CO2 emission reduction costs are lower than projected. The states implementing the ECR will withhold up to 10 percent of their respective annual base budgets per year. The ECR trigger price will start at \$6.00 in 2021 and will increase by seven percent each year thereafter.

The revisions to Part 242 will retain only the offset provisions for avoided methane emissions from agricultural manure management operations. While an individual state may choose to retain no, some, or all three eligible offset project categories, any offset allowances awarded by an individual state would remain fully fungible across all the participating states for compliance purposes.

The Department created the 2019 and 2020 program review allowance retirement set-aside account. The Department will transfer 184,237 allowances from the 2020 annual adjusted budget allocated to the Energy Efficiency and Clean Energy Technology (EE&CET) Account into the 2019 and 2020 program review allowance retirement set-aside account to account for the 184,237 allowance increase to the 2019 base budget in Rhode Island's recently adopted regulation. The Department will retire these allowances to keep the regional cap whole for the 2019 allocation year. The Department will take the 184,237 allowances from allocation year 2020. Similarly, the Department will transfer 179,632 allowances from the 2020 annual adjusted budget allocated to the EE&CET Account into the 2019 and 2020 program review allowance retirement set-aside account to account for the 179,632 allowance increase to the 2020 base budget in Rhode Island's recently adopted regulation. The Department will retire these allowances to keep the regional cap whole for the 2020 allocation year.

New York stakeholders raised concerns during the extensive outreach efforts that the cost of complying with RGGI might result in increased operation at units not subject to the regulatory provisions of Part 242, particularly at smaller units below the existing 25 megawatt (MW) applicability threshold. To address this concern, New York is expanding applicability under Part 242 to capture certain units that serve an electricity generator with a nameplate capacity equal to or greater than 15 MW. This applicability expansion will apply to any unit 15 MW or greater that resides at an existing CO2 budget source, and to any 15 MW unit that resides at a facility where there are two or more units with a nameplate capacity of 15 MW or larger.

Under the revisions, the control periods will remain unchanged with a CO2 allowance transfer deadline of March 1st of each year for interim compliance and every third year for control period compliance. The revised Program will require affected sources already subject to the Program to continue to comply.

The Program revisions will retain the interim compliance obligation. In addition to demonstrating full compliance at the end of each three-year compliance period, regulated entities will continue to have to demonstrate that they are holding allowances equal to at least 50 percent of their emissions at the end of each of the first two years in each three-year compli-

ance period. Units 15 MW and larger will be subject to both the interim control period and control period requirements on the later of January 1, 2021 or the date the unit commences operation.

The majority of the proceeds from the sale of New York's allowances will continue to be dedicated to strategic energy or consumer benefits, such as energy efficiency and clean energy technologies. The New York State Energy Research and Development Authority (NYSERDA) will continue to administer the energy efficiency and clean technology account pursuant to 21 NYCRR Part 507 (CO2 Allowance Auction Program).

The Reserve Price is the minimum acceptable price for each CO2 allowance in a specific auction. The reserve price is either the Minimum Reserve Price (MRP) or the CCR trigger price, depending on the level of demand for allowances at the auction. The revisions to Part 242, would retain the existing CCR trigger price for 2020 and will set the new CCR trigger price at \$13.00 starting in 2021. After 2021 the CCR trigger price will increase by seven percent each year thereafter.

The revisions to Part 242 would maintain the amount of CO2 allowances allocated to the long-term contract set-aside accounts under the Program, while increasing the size of the voluntary renewable energy market and eligible biomass set-aside by 200,000 allowances beginning in 2021. Accordingly, the Department will allocate 700,000 and 1,500,000 tons to the voluntary renewable energy market and eligible biomass set-aside and long-term contract set-aside accounts, respectively, from the CO2 Budget Trading Program annual adjusted budget in 2020. Starting in 2021, the Department will allocate 900,000 and 1,500,000 tons to the voluntary renewable energy market and eligible biomass set-aside and long-term contract set-aside accounts, respectively, from the CO2 Budget Trading Program annual adjusted budget. The 700,000 ton voluntary renewable energy market set-aside was calculated using information from the renewable energy market as it relates to the RPS with allowance for some market growth. The Department is increasing the size of the existing "voluntary renewable energy market set-aside" in subdivision 242-5.3(c) to account for anticipated increases in the voluntary renewable energy market in the next couple of years. This revision in conjunction with the revision from the previous rulemaking for Part 242 expands eligibility for retiring CO2 allowances from the set-aside to include CO2 budget sources that co-fire eligible biomass as a compliance mechanism should address concerns raised by voluntary market participants in the near term. The Department plans to evaluate the emission factor used in determining the number of allowances to retire on behalf of each voluntary renewable energy purchase applicant and the size of the newly expanded set-aside again in the next regional program review. The expansion in the size of the set-aside in subdivision 242-5.3(c) addresses the likelihood that the set-aside will continue to be over-subscribed in the future. However, should the set-aside of 900,000 be over-subscribed, the Department maintains the proportional retirement provision in the set-aside, and any undistributed allowances from the set-aside may remain in the set-aside account for future retirement.

The revisions to the Program maintain the existing provisions for voluntary renewable energy purchases. A voluntary renewable energy purchase is a purchase of electricity from renewable energy generation or from renewable energy attribute credits by a retail electricity customer on a voluntary basis. Renewable energy includes electricity generated from biomass, wind, solar thermal, photovoltaic, geothermal, hydroelectric facilities certified by the Low Impact Hydropower Institute, wave and tidal action, and fuel cells powered by renewable fuels. The renewable energy generation or renewable energy attribute credits related to such purchases may not be used by the generator or purchaser to meet any regulatory mandate, such as an RPS. The Department will continue to retire allowances under the voluntary renewable energy market and eligible biomass set-aside for voluntary renewable energy purchases.

Finally, the revisions to Part 200 include updated references that are incorporated by reference into the revisions to Part 242.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 200.9, 242-1.2(b)(14), (16), (18), (33), (34), (53), (75), 242-2.1(d), 242-2.5(a), 242-5.2(a), (b), (d), 242-5.3(e)(3)(iii), (5), 242-8.1(a)(2), (c)(2), 242-8.2(c), (d)(3)(iv), 242-10.5(a)(1)(iii) and (a)(5)(iii).

**Text of rule and any required statements and analyses may be obtained from:** Mike Sheehan, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251, (518) 402-8396, email: air.regs@dec.ny.gov

**Additional matter required by statute:** Pursuant to Article 8 of the State Environmental Quality Review Act, a Short Environmental Assessment Form, and a Coastal Assessment Form have been prepared and are on file.

**Summary of Revised Regulatory Impact Statement** The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States and is the first mandatory, market-based carbon dioxide (CO2) emissions reduction program in the United

States. Recently, New York along with the Participating States, completed a comprehensive program review and announced a proposal to lower the regional emissions cap established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) revised 6 NYCRR Part 242, CO2 Budget Trading Program (the Program) and 6 NYCRR Part 200, General Provisions.

The statutory authority to revise the Program to reduce the CO2 emissions cap, provide for the budget adjustments, and add an emissions containment reserve derives primarily from the Department's authority to use all available practical and reasonable methods to prevent and control air pollution, as set out in the Environmental Conservation Law (ECL) at Sections 1-0101, 1-0303, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 71-2103, 71-2105. The Allowance Auction Program (21 NYCRR Part 507) will also be revised by the New York State Energy Research and Development Authority (NYSERDA) as part of this rulemaking. The statutory sections that grant NYSEDA authority to implement the Allowance Auction Program, which were outlined in the Regulatory Impact Statement accompanying such rulemaking, are briefly outlined in the full Regulatory Impact Statement as background and context for the Program revisions.

The warming climate represents an enormous environmental challenge for the State, because unabated, climate change will continue to have serious adverse impacts on the State's natural resources, public health and infrastructure. New York power plants represent approximately 13 percent of all GHG emissions in the State. In 2018, New York power plants in the State subject to the Program burned fossil fuels to produce approximately 27.3 million tons of CO2 into the atmosphere.

The Department complied with Sections 202-a, 202-b and 202-bb of the State Administrative Procedures Act through an extensive Regional program review process that included public participation by all Participating States. New York coordinated an additional stakeholder process to gather input from the public within its borders. New York and the Participating States had committed to a comprehensive program review during the initial development of RGGI and agreed to evaluate: program success; program impacts; additional emissions reductions; imports and emissions leakage; and offsets. On November 2012, after completion of the first extensive and comprehensive RGGI Program Review, the RGGI Participating States proposed program revisions to reduce the regional emissions cap to 91 million tons in 2014 and committed to reduce that level by 2.5 percent each year through 2020. Further, to account for the full bank of excess allowances at the end of 2014, additional cap adjustments were made over the course of the program from 2014 to 2018, and additional adjustments will be made over the 2019 to 2020 time period. The Participating States initiated program review in the fall of 2015 with the announcement of the first stakeholder meeting, and concluded the process in August 2017. New York conducted an in-state separate stakeholder process designed to provide updates on the status of the regional process and to afford additional opportunity for New York's stakeholders to provide comment.

Mitigating the impacts of a changing climate represents one of the most pressing environmental challenges for the State, the nation and the world. Extensive scientific data demonstrates the need for immediate worldwide action to reduce emissions from burning fossil fuels and supports the conclusion that great benefits will accrue if fossil fuel-fired emissions are reduced through programs like RGGI.

A naturally occurring greenhouse effect has regulated the earth's climate system for millions of years. CO2 and other naturally occurring GHGs trap heat in our atmosphere, maintaining the average temperature of the planet approximately 60°F above what it would be otherwise. An enhanced greenhouse effect and associated climate change results as large quantities of anthropogenic GHGs, especially CO2 from the burning of fossil fuels, are added to the atmosphere. Since the mid-1700's, atmospheric concentrations of GHGs have increased substantially due to human activities such as fossil fuel use and land-use change. Average atmospheric CO2 concentrations exceeded 407 parts per million in 2018, which according to ice core data is higher than at any point in the past 800,000 years and the rate of increase is 100 times faster than previous natural increases at the end of the last ice age.

The need for the reduction of CO2 emissions through the revisions to the Program is clearly supported by numerous direct impacts that have been observed in New York State and presented in the 2011 New York State ClimAID assessment and the 2014 update to ClimAID. Temperatures in New York State have risen during the twentieth century, with the greatest warming coming in recent decades - temperatures have risen on average 0.25°F per decade over the past century. This warming includes an increase in the number of extreme hot days (days at or above 90°F) and a decrease in the number of cold days (days at or below 32°F). Sea levels in the coastal waters of New York have been steadily rising over the twentieth

century, chiefly as a result of thermal expansion of ocean waters, melting land ice and local changes in the height of land relative to the height of the continental land mass. Tide-gauge observations in New York indicate that rates of relative sea level rise were significantly greater than the global mean, ranging from 0.9 to 1.5 inches per decade.

Predictions of future impacts associated with emissions in New York further support the need for a substantial reduction in the CO2 emissions cap. The 2011 New York State ClimAID assessment and 2014 update also examined how sea level rise, changes in precipitation patterns, and more frequent severe weather conditions will affect New York's economy, environment, community life and human health. ClimAID used regionalized climate projections to develop adaptation recommendations and is a climate change preparedness resource for planners, policymakers, and the public. The ClimAID assessment and update predicted the following: Air temperatures are expected to rise across New York, by 2.0°F to 3.4°F by the 2020s, 4.1°F to 6.8°F by the 2050s, and 5.3°F to 10.1°F by the 2080s. Annual average precipitation in New York is projected to increase by up to five percent by the 2020s, up to 12 percent by the 2050s and up to 15 percent by the 2080s, with the greatest increases in the northern part of the State. The Department promulgated science-based projections of sea level rise based on the multiple scenarios identified in the 2014 ClimAID assessment and update. These projections identify the potential rise in sea level through 2100 in three coastal regions of the state.

Extreme climate events, such as heat waves and heavy rainstorms, significantly impact New York's communities and natural resources. Heat waves are expected to become more frequent, and storm-related coastal flooding is expected to increase with rising sea levels.

The need for the significantly reduced CO2 emissions cap and budget adjustments are further supported by the ClimAID assessment which provides predictions regarding the effects climate change will have on specific resources and communities in New York State. Rising air temperatures intensify the water cycle by driving increased evaporation and precipitation, resulting in altered patterns of precipitation including more rain falling in heavy events, often with longer dry periods in between. High water levels, strong winds, and heavy precipitation resulting from strong coastal storms already cause billions of dollars in damage and disrupt transportation and power distribution systems. Barrier islands are being dramatically altered by strong coastal storms, such as Hurricane Sandy, as ocean waters over wash dunes, create new inlets, and erode beaches. Sea level rise will lead to more frequent and extensive coastal flooding, more frequent flooding, permanent inundation of low-lying areas, encroachment of saltwater into freshwater areas, and increased beach erosion. Loss of coastal wetlands reduces species diversity. Within the next several decades, New York State is likely to see widespread shifts in species composition in the State's forests and other natural landscapes. Lakes, streams, inland wetlands and associated aquatic species will be highly vulnerable to changes in the timing, supply, and intensity of rainfall and snowmelt, groundwater recharge and duration of ice cover. Increased summer heat stress will negatively affect cool-season crops and livestock unless farmers take adaptive measures such as shifting to more heat-tolerant crop varieties and improving cooling capacity of livestock facilities. A warmer climate would result in a different crop mix and decreased milk production for New York's farmers. Demand for health services and the need for public health surveillance and monitoring will increase due to increasing rates of heat related illness and death, respiratory diseases, vector-borne diseases, and water- and food-borne illnesses. Over the next few decades, heat waves and heavy precipitation events are likely to increase transportation problems such as flooded streets and delays in mass transit. Communication service delivery is vulnerable to hurricanes, lightning, ice, snow, wind storms, and other extreme weather events, some of which are projected to change in frequency and/or intensity. Impacts of climate change on energy demand are likely to be more significant than impacts on supply. Climate change will adversely affect system operations, increase the difficulty of ensuring adequate supply during peak demand periods, and exacerbate problematic conditions, such as the urban heat island effect.

The Program revisions will cap regional emissions at approximately 75 million tons annually beginning in 2021 and will reduce that level by 3.0 percent each year through 2030. Further, to account for the existing private bank of CO2 emissions allowances already acquired at auction, and to help create a binding cap, the Program revisions provide for a third budget (cap) adjustment. To provide flexibility and cost containment the Program revisions retain the Cost Containment Reserve (CCR), and create an Emissions Containment Reserve (ECR). The Program revisions retain the interim compliance obligation. The RGGI Model Rule revisions eliminated two offset categories, the "SF6 Offset Category" and the "End-Use Energy Efficiency Offsets Category" and updated and retained three offset categories. New York is only retaining the offset provision for avoided methane emissions from agricultural management operations. Finally, to address stakeholder concerns, New York is expanding applicability under

Part 242 to capture certain units that serve an electricity generator with a nameplate capacity equal to or greater than 15 MW. This applicability expansion will apply to any unit 15 MW or greater that resides at an existing CO<sub>2</sub> budget source and to any 15 MW unit that resides at a facility where there are two or more units with a nameplate capacity of 15 MW or larger.

The Department, NYSERDA and the New York State Department of Public Service (DPS) analyzed costs and impacts associated with compliance with the revisions to the Program. Under the Reference Case, without the revisions to the program, CO<sub>2</sub> allowance prices (the cost of complying with RGGI) are projected to increase through 2023 to \$2.60/ton (2015 dollars) and then decline to the auction reserve price by 2026, as a result of added renewable generation, where they will remain through 2031. Under the Model Rule Policy Case, New York's wholesale electricity prices (including both energy and capacity costs) are projected to be \$1.29/MWh (2015 dollars) higher in 2031 than the Reference Case, a three percent increase. A macro-economic impact study of the Program was also conducted. The study concluded that the economic impacts of RGGI on the economies of the participating states, including New York, were generally positive, albeit relatively small.

There will be costs associated with the administration of the Program. The Department will continue to incur staff costs associated with the implementation of the revised Program. NYSERDA will also continue to incur costs to administer and evaluate the use of auction proceeds from the Program. It should be noted, that the Department's costs and NYSERDA's administrative and evaluation rates are expected to remain unchanged as a result of the Program revisions. A significant portion of Program costs are allocated to the operation and administration of the CO<sub>2</sub> Allowance Tracking System (COATS) and conducting allowance auctions. It is anticipated that these costs will not change in the future.

Under the existing Program and the revisions to the Program, the owners and operators of each source and each unit at the source shall retain the following documents for a period of ten years from the date the document is created: account certificate of representation form; emissions monitoring information; copies of all reports and compliance certifications; copies of all documents used to complete a permit application; copies of all documents used to complete a consistency application; and copies of all documents required as part of an auction application.

For each control period in which one or more units at a source are subject to the CO<sub>2</sub> budget emission limitation, the CO<sub>2</sub> authorized account representative of the source shall submit to the Department, a compliance certification report for each source covering all such units. This must be submitted by the March 1st following the relevant control period for all units subject to the Program.

The Department examined the "No Action" alternative which would leave the current Program in place and the Program cap and flexibility provisions within it would remain unchanged. Since the "No Action" alternative would leave the Program unchanged and would not address the results of the regional Program Review at the end of 2017 it was not selected. The Department also considered different regional emissions cap levels as additional alternatives, rather than the approximately 75 million ton regional emission cap that is to be implemented under the revised Program. Lastly, flexibility provided for under the Program provided through the revision to the CCR and offset provisions, and the inclusion of the ECR were evaluated.

The revisions to the Program are protective of public health and the environment in the absence of similar federal emission standards. The potential adverse impact to global air quality and New York State's environment from CO<sub>2</sub> emissions necessitates that New York State take action now to minimize CO<sub>2</sub> emissions that contribute to climate change. Due in part to the lack of a federal program, the Department has determined that fossil fuel-fired electricity generators must continue to reduce emissions of CO<sub>2</sub> now.

The revisions to the Program include an expansion of the applicability provisions of the current Program. The revised Program will require affected sources already subject to the Program to continue to comply. Units newly subject to the Program under the expansion to certain units 15 MW and larger will be subject to the Program for compliance purposes beginning in 2021. The Program revisions retain the interim compliance obligation. Units 15 MW and larger that are subject to the Program will be subject to both the interim control period and control period requirements on the later of January 1, 2021 or the date the unit commences operation.

The Program revisions also include minor revisions and updates to all references. Finally, the majority of the proceeds from the sale of New York's allowances will continue to be dedicated to strategic energy or consumer benefits, such as energy efficiency and clean energy technologies.

#### **Summary of Revised Regulatory Flexibility Analysis**

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States and is the

first mandatory, market-based carbon dioxide (CO<sub>2</sub>) emissions reduction program in the United States. Since its inception in 2008, RGGI has utilized a market-based mechanism to cap and cost-effectively reduce emissions that cause climate change. Recently, New York along with the Participating States, completed a comprehensive program review and announced a proposal to lower the regional emissions cap established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030. Accordingly, New York and the Participating States committed to propose revisions, pursuant to state-specific regulatory processes, to their respective CO<sub>2</sub> Budget Trading Programs to further reduce CO<sub>2</sub> emissions from power plants in the region. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) revised 6 NYCRR Part 242, CO<sub>2</sub> Budget Trading Program (the Program) and 6 NYCRR Part 200, General Provisions.

The only local governments affected by the Program revisions are the Jamestown Board of Public Utilities (JBPU), which owns and operates the S. A. Carlson Generating Station (SACGS), and the Village of Freeport, which owns and operates the Freeport Power Plant No. 2. The emissions monitoring at both facilities currently meet the monitoring provisions of the revisions. No additional monitoring costs will be incurred. The costs associated with their compliance with the revisions will be similar to those incurred by other privately held sources. Their compliance costs in addition to those already incurred for compliance with the Program will depend upon their need to solicit professional services for compliance. No small businesses will be directly affected by the adoption of the revisions.

The Program revisions, capping regional CO<sub>2</sub> emissions at approximately 75 million tons annually beginning in 2021, represent a nearly 30 percent reduction in the regional cap for the period 2020-2030. After 2021, the cap will decline by 2.275 million tons annually. The revisions provide a Third Adjustment for Banked Allowances which will adjust the budget for 100 percent of the pre-2021 vintage allowances held by market participants as of the end of 2020, that are in excess of the total quantity of 2018, 2019 and 2020 emissions. This adjustment will be implemented over the period 2021-2025, after the actual size of the 2020 vintage private bank is determined.

The Program revisions retain the Cost Containment Reserve (CCR) and modifies the CCR trigger price and the maximum amount of CCR allowances available at auction each year. CCR allowances will be triggered and released at auctions at \$10.77 in 2020, at \$13.00 in 2021 and will increase by seven percent each year thereafter. If the trigger price is reached, up to 10 million additional CCR allowances will be available for purchase at auction in 2020, increasing to up to 10 percent of the regional cap of additional CCR allowances beginning in 2021.

The Program revisions create an Emissions Containment Reserve (ECR), which will help secure additional emissions reductions by withholding allowances from auction if prices fall below established trigger prices. The states implementing the ECR will withhold up to 10 percent of their annual base budgets per year. The ECR trigger price will start at \$6.00 in 2021 and will increase by seven percent each year thereafter.

The Program revisions retain the interim compliance obligation.

#### **EFFECT ON SMALL BUSINESSES AND LOCAL GOVERNMENTS**

No small businesses will be directly affected by the adoption of the Program revisions.

#### **COMPLIANCE REQUIREMENTS**

As noted above, the JBPU and the Village of Freeport will need to comply with the revisions to the Program, as described more fully in the Regulatory Impact Statement.

New York stakeholders raised concerns during our extensive outreach effort, that the cost of RGGI might result in increased operation at units not subject to the regulatory provisions of Part 242. To address this concern, New York is expanding applicability under Part 242 to capture units that serve an electricity generator with a nameplate capacity equal to or greater than 15 megawatts (MW), that reside at an existing CO<sub>2</sub> budget source, and to 15 MW units that reside at a facility where there are two or more units with a nameplate capacity of 15 MW or larger.

The Program revisions retain the interim compliance obligation. In addition to demonstrating full compliance at the end of each three-year compliance period, regulated entities will continue to have to demonstrate that they are holding allowances equal to at least 50 percent of their emissions at the end of each of the first two years in each three-year compliance period. The Program revisions also include minor revisions and updates to all references. The majority of the proceeds from the sale of New York's allowances will continue to be dedicated to strategic energy or consumer benefits, such as energy efficiency and clean energy technologies.

#### **PROFESSIONAL SERVICES**

There are two local governments affected by the revisions to the Program, the Jamestown Board of Public Utilities (JBPU) and the Village of Freeport, and like other privately held sources, they may need to solicit

professional consultants and contractors for its compliance with the revisions to the Program. The Department also confirmed that no capital improvements to plant operations will be needed for JBPU's or the Village of Freeport's compliance with the Program revisions.

#### COSTS

In addition to the costs identified for regulated parties and the public, State and local governments will incur costs. The Jamestown Board of Public Utilities (JBPU) and the Village of Freeport own and operate affected facilities. Emissions monitoring at both facilities currently meets the monitoring provisions of the Program, and no additional monitoring costs will be incurred under the revisions. Just like any other owner or operator of any source subject to the Program, the JBPU and the Village of Freeport will need to purchase CO<sub>2</sub> allowances equal to the number of tons of CO<sub>2</sub> emitted. The Department limited the analysis of control costs to the purchase of allowances to comply with the Program and assumed that the costs of allowances will be between \$5.96 in 2020 and \$9.77 in 2031 (in 2015 \$) per ton for CO<sub>2</sub> under the Program Case. To estimate total costs for SACGS under the Program, the Department reviewed 2013 through 2018 emissions from Jamestown's affected unit. During that time period, Jamestown's emissions ranged from a low of 71,255 tons to a high of 135,579 tons. An estimate of compliance costs, based on these emissions values, indicates that purchasing allowances to cover emissions will result in estimated costs between a low of \$425,000 and a potential high of \$1.3 million annually. To estimate total costs for Freeport Power Plant No. 2 under the Program, the Department reviewed 2013 through 2018 emissions from Freeport's affected unit. During that time period, Freeport's emissions ranged from a low of 23,662 tons to a high of 37,850 tons. An estimate of compliance costs, based on these emissions values, indicates that purchasing allowances to cover emissions will result in estimated costs between a low of \$141,000 and a potential high of \$369,795 annually. These costs will eventually be passed on to the consumers of electricity from the JBPU and the Village of Freeport. These estimated compliance costs are costs associated with compliance with the Program overall, meaning that the incremental cost of compliance associated with the revisions to the Program would be less.

The JBPU and the Village of Freeport can utilize the flexibility inherent under the Program to comply. Since the program has a three-year control period with the compliance obligation at the end of the control period, the emission peaks associated with electricity generation will be averaged out and more long-term planning options will be available to SACGS and Freeport Power Plant No. 2. Although the Program revisions retain the Interim Control Period, that will require JBPU and the Village of Freeport to cover 50 percent of their emissions in each of the first two years of a three-year control period, it is not anticipated that this interim requirement will significantly reduce the flexibility available to JBPU and the Village of Freeport. The JBPU and the Village of Freeport will also incur costs associated with the administration of the revised Program.

#### MINIMIZING ADVERSE IMPACTS

The revisions do not directly affect small businesses. Only two local governments are affected by the revisions. The Program revisions constitute an emissions allowance-based cap-and-trade program. Cap and trade systems are the most cost-effective means for implementing emission reductions from large stationary sources. By continuing to implement the Program and Program revisions, the Department will minimize any associated adverse economic impacts on the JBPU and the Village of Freeport.

#### SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

The Participating States initiated the most recent program review in the fall of 2015 and concluded the process in August 2017. The Participating States and RGGI Incorporated (RGGI, Inc.) conducted stakeholder meetings and webinars during this period, during which they obtained public input on a number of program elements. Prior to each stakeholder meeting, agency staff and RGGI, Inc. distributed pertinent material to the over 250 participants on the list serve and posted meeting documents on the RGGI, Inc. website. The stakeholder meetings were open to the public and all interested parties were encouraged to provide comment. The Draft Updated Model Rule was released to stakeholders for comment on August 23, 2017. On December 19, 2017, the Participating States released the final version of the Updated Model Rule, which contained additional updates based on stakeholder feedback received on the Draft Updated Model Rule.

New York conducted an in-state stakeholder process designed to provide updates on the status of the regional process and to afford additional opportunity for New York's stakeholders to provide comment. The Department held stakeholder meetings and sent list-serve notices to New York stakeholders announcing regional meetings and webinars. The input provided by stakeholders during both the regional and in-state processes have been considered and incorporated by the Department in developing the revisions to the Program. The Department's records from

those stakeholder meetings do not reflect that the JBPU or Freeport attended those meetings.

#### CURE PERIOD OF AMELIORATIVE ACTION

The Program revisions will be effective beginning in 2021. The revised Program will require affected sources already subject to the Program to continue to comply, and units newly subject to the emission limitations under the expansion of the Program to certain units 15 MW beginning in 2021. No additional cure period or other additional opportunity for ameliorative action is included in the Program revisions. First, aside from the applicability expansion to certain units 15 MW or larger, most sources that will be subject to the Program revisions are already subject to the existing Program and have been since the regulation was initially promulgated in 2008 (or since they commenced operation). This includes the SACGS and Freeport Power Plant No. 2. Second, because of the cap-and-invest nature of the revisions to the Program which includes periodic compliance deadlines, sources have flexibility to emit any amount of CO<sub>2</sub> during a control period, provided such emissions are covered by an adequate amount of CO<sub>2</sub> allowances by the relevant CO<sub>2</sub> allowance transfer deadline. This is unchanged under the revisions and will continue to provide sources with flexibility to comply with the Program revisions. Finally, while the Program revisions retain the interim compliance requirement, the first interim compliance period was in 2015 and subsequent interim compliance periods will continue to be each of the first two years of the three-year control period. For these reasons, no additional cure period or other additional opportunity for ameliorative action is necessary for the Program revisions.

#### Revised Rural Area Flexibility Analysis

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States and is the first mandatory, market-based carbon dioxide (CO<sub>2</sub>) emissions reduction program in the United States. Since its inception in 2008, RGGI has utilized a market-based mechanism to cap and cost-effectively reduce emissions that cause climate change. Recently, New York along with the Participating States, completed a comprehensive program review and announced a proposal to lower the regional emissions cap established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030. Accordingly, New York and the Participating States committed to propose revisions, pursuant to state-specific regulatory processes, to their respective CO<sub>2</sub> Budget Trading Programs to further reduce CO<sub>2</sub> emissions from power plants in the region. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) revised 6 NYCRR Part 242, CO<sub>2</sub> Budget Trading Program (the Program) and 6 NYCRR Part 200, General Provisions.

The promulgation of the revisions to Part 242 and the amendments to Part 200 will apply equally to affected sources statewide; rural areas will not be disproportionately impacted. The Department will implement the Program revisions through a cap-and-invest program because allowance-based cap-and-invest systems are a cost-effective means for implementing emission reductions from stationary sources.

The regulatory flexibility inherent in a cap-and-investment program, as well as the flexibility provided under the revisions to the Program, including the Cost Containment Reserve (CCR) and Offset provisions, helps to ensure continued reliability and adequacy of the State's electricity supply, assists in the furtherance of public health, and is necessary for continued industrial development and preservation of physical property, while minimizing any potential adverse impacts of the revised Program on a statewide basis.

#### The Program Revisions

The Program revisions, which will cap regional CO<sub>2</sub> emissions at approximately 75 million tons annually beginning in 2021, represent a nearly 30 percent reduction in the regional cap for the period 2020-2030. After 2021, the cap will decline by 2.275 million tons annually. Further, to account for the existing private bank of CO<sub>2</sub> emissions allowances already acquired at auction, and to help create a binding cap, the Program revisions provide a budget adjustment for banked allowed. The Third Adjustment for Banked Allowances will adjust the budget for 100 percent of the pre-2021 vintage allowances held by market participants as of the end of 2020 that are in excess of the total quantity of 2018, 2019 and 2020 emissions. The third adjustment would be implemented over the five-year period of 2021-2025, after the size of the 2020 vintage private bank is determined.

The Program revisions retain the CCR, which helps provide additional flexibility and cost containment for the Program. While the revisions to the Program retain the CCR, the revisions would modify the CCR trigger price and the maximum amount of CCR allowances available at auction each year. In particular, the CCR allowances will be triggered and released at auctions at \$10.77 in 2020 and will increase to \$13.00 starting in 2021. Each year after 2021, the CCR trigger price will increase by seven percent. If the trigger price is reached, up to 10 million additional CCR allowances

will be available for purchase at auction in 2020. Beginning in 2021, up to 10 percent of the regional base budgets of additional CCR allowances will be available for purchase at auction if the CCR trigger is reached.

The Program revisions create an Emissions Containment Reserve (ECR), which will also help secure additional emissions reductions if prices fall below established trigger prices. The ECR will only be triggered and allowances will be withheld from auctions if reduction costs are lower than projected. The states implementing the ECR will withhold up to 10 percent of their annual base budgets per year. The ECR trigger price will start at \$6.00 in 2021 and will increase by seven percent each year thereafter.

New York stakeholders raised concerns during our extensive outreach effort, that the cost of RGGI might result in increased operation at units not subject to the regulatory provisions of Part 242. To address this concern, New York is also expanding applicability under Part 242 to capture certain units that serve an electricity generator with a nameplate capacity equal to or greater than 15 megawatts (MW). This applicability expansion will apply to any unit 15 MW or greater that resides at an existing CO2 budget source, and to any 15 MW unit that resides at a facility where there are two or more units with a nameplate capacity of 15 MW or larger.

Finally, the Program revisions will retain the interim compliance obligation. In addition to demonstrating full compliance at the end of each three-year compliance period, regulated entities will continue to have to demonstrate that they are holding allowances equal to at least 50 percent of their emissions at the end of each of the first two years in each three-year compliance period. The Program revisions also include minor revisions and updates to all references. The majority of the proceeds from the sale of New York's allowances will continue to be dedicated to strategic energy or consumer benefits, such as energy efficiency and clean energy technologies.

The nature of the Program revisions, generally described above and discussed more thoroughly in the accompanying Regulatory Impact Statement (RIS), is such that they clearly will minimize any potential adverse impacts of the revised Program on a statewide basis, including any potential adverse impacts to rural areas.

#### TYPES AND NUMBERS OF RURAL AREAS AFFECTED

The promulgation of the Program revisions and the amendments to Part 200, will apply equally to affected public and private sources statewide; rural areas will not be disproportionately impacted.

#### COMPLIANCE REQUIREMENTS

The Program revisions include an expansion of the applicability provisions of the current Program. The revised Program will require affected sources already subject to the Program to continue to comply. Units newly subject to the Program under the expansion to certain units 15 MW and larger will be subject to the Program for compliance purposes beginning in 2021. The Program revisions retain the interim compliance obligation. Units 15 MW and larger that are subject to the Program will be subject to both the interim control period and control period requirements on the later of January 1, 2021 or the date the unit commences operation.

#### COSTS

The Department, New York State Energy Research Development Authority (NYSERDA) and New York State Department of Public Service (DPS) analyzed costs, including statewide impacts to jobs, total Gross State Product and total Personal Income, associated with compliance with the revisions to Part 242. As discussed below, this analysis concludes that the Program revisions will not disproportionately affect sources in rural areas of the State and best enables the Department to balance the competing interests of the protection of the public health and welfare with continued industrial development on a statewide basis. By revising the Program, the Department is able to balance these competing interests and minimize any potential adverse impacts of the revised Program.

To evaluate the potential cost impacts of the reduced CO2 emissions cap and budget adjustments, Integrated Planning Model (IPM®) was used to compare a future case with the Program (Program Case) to a Reference Case (Business as Usual scenario) to project how the regional electricity system would function if the Program remained unchanged and if the revisions were not implemented. The modeling assumptions and input data were developed through a stakeholder process, including representatives from the electricity generation sector, business and industry, environmental advocates and consumer interest groups. Subsequently, modeling results were presented to stakeholders for review and comment throughout the development of the Program revisions. For a greater explanation of NYSERDA's analysis and a summary of the (IPM®) modeling conducted by ICF International (ICF), see Regulatory Impact Statement pages 53-72.

A macroeconomic study of the Program was conducted to estimate the potential impact of the reduced CO2 emissions cap, budget adjustments and the remainder of the Program revisions on the economies of the Participating States. The study, using the REMI computer model, concluded that the impacts on the jobs, the economy and customer bills, in

New York would be generally positive, albeit relatively small. The estimated cumulative, positive change in employment in New York associated with the Program revisions will be about 23,234 additional job-years over the period 2017 to 2031. A job-year is equivalent to one person employed for one year. Further, the study estimates that the cumulative changes in New York's Gross State Product and Personal Income associated with the Program revisions will be approximately \$2.1 billion and \$1.2 billion, respectively. Although these cumulative changes are minimal, they represent positive impacts for total State employment, total Gross State Product and total Personal Income.

#### MINIMIZING ADVERSE IMPACT

The Department will implement the Program revisions through a cap-and-invest program because allowance and market-based systems are a cost-effective means for implementing emission reductions from stationary sources. The regulatory flexibility inherent in a cap-and-invest program that allows for interstate trading of emission allowances will not disproportionately affect sources in rural areas of the State and best enables the Department to balance the competing interests of the protection of the public health and welfare with continued industrial development of the State. By revising the Program, the Department is further able to balance these competing interests and minimize any potential adverse employment impacts of the revised Program.

#### RURAL AREA PARTICIPATION

The Department complied with Sections 202-a, 202-b and 202-bb of the State Administrative Procedures Act through an extensive Regional program review process that included public participation by all Participating States. New York coordinated an additional stakeholder process to gather input from the public within its borders. New York and the Participating States had committed to a comprehensive program review during the initial development of RGGI and agreed to evaluate: program success; program impacts; additional emissions reductions; imports and emissions leakage; and offsets.

New York conducted an in-state stakeholder process designed to provide updates on the status of the regional process and to afford additional opportunity for New York's stakeholders to provide comment. The Department held stakeholder meetings and sent list-serve notices to New York stakeholders announcing regional meetings and webinars. The input provided by stakeholders during the in-state process have been considered and incorporated by the Department in developing the revisions to the Program.

#### Revised Job Impact Statement

##### NATURE OF IMPACT

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States and is the first mandatory, market-based carbon dioxide (CO2) emissions reduction program in the United States. Since its inception in 2008, RGGI has utilized a market-based mechanism to cap and cost-effectively reduce emissions that cause climate change. Recently, New York along with the Participating States, completed a comprehensive program review and announced a proposal to lower the regional emissions cap established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030. Accordingly, New York and the Participating States committed to propose revisions, pursuant to state-specific regulatory processes, to their respective CO2 Budget Trading Programs to further reduce CO2 emissions from power plants in the region. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) revised 6 NYCRR Part 242, CO2 Budget Trading Program (Part 242 or the Program) and 6 NYCRR Part 200, General Provisions.

The Department, New York State Energy Research Development Authority (NYSERDA) and the New York State Department of Public Service (DPS) analyzed costs, including impacts to jobs, total Gross State Product and total Personal Income, associated with compliance with the revisions to Part 242. As discussed below, this analysis concludes that the revisions to the Program will not have an adverse impact on jobs and employment opportunities in New York. At the direction of New York and Participating States, Northeast States Coordinated Air Use Management (NESCAUM) conducted a macroeconomic impact study called "Regional Economic Models, Inc. Policy Insight™ (REMI). The macroeconomic results reflect the potential impacts associated with the revisions to the Program (including the investment of auction proceeds in an estimated portfolio of energy efficiency, clean energy and carbon abatement programs). The study concluded that the economic impacts of RGGI on the economies of the Participating States, including New York, were generally positive, albeit relatively small. For example, the cumulative changes in New York's Gross State Product and Personal Income associated with the revisions to the Program will be about \$2.1 billion and \$1.2 billion, respectively (2015 dollars, calculated as the present value of estimated annual changes over the period 2017 to 2031, discounted at three percent per year to account for the time-value of money). The

cumulative change in employment in New York associated with the Program will be about 23,234 job-years over the period 2017 to 2031. A job-year is equivalent to one person employed for one year.

The Program revisions, which will cap regional CO<sub>2</sub> emissions at approximately 75 million tons annually beginning in 2021, represent a nearly 30 percent reduction in the regional cap for the period 2020-2030. After 2021, the cap will decline by 2.275 million tons annually. Further, to account for the existing private bank of CO<sub>2</sub> emissions allowances already acquired at auction, and to help create a binding cap, the Program revisions provide a budget adjustment. The Third Adjustment for Banked Allowances will adjust the budget for 100 percent of the pre-2021 vintage allowances held by market participants as of the end of 2020, that are in excess of the total quantity of 2018, 2019, and 2020 emissions. The third adjustment would be implemented over the five-year period of 2021-2025, after the size of the 2020 vintage private bank is determined.

The revisions to Part 242 also retain the Cost Containment Reserve (CCR), which helps provide additional flexibility and cost containment for the Program. While the revisions to the Program retain the CCR, the revisions would modify the CCR trigger price and the maximum amount of CCR allowances available at auction each year. In particular, the CCR allowances will be triggered and released at auctions at \$10.77 in 2020 and will increase to \$13.00/ton starting in 2021. Each year after 2021, the CCR trigger price will increase by seven percent. If the trigger price is reached, up to 10 million additional CCR allowances will be available for purchase at auction in 2020. Beginning in 2021, up to 10 percent of the regional cap of additional CCR allowances will be available for purchase at auction if the CCR trigger price is reached.

The Program revisions create an Emissions Containment Reserve (ECR), which will also help secure additional emissions reductions if prices fall below established ECR trigger prices. The ECR will only be triggered, and allowances withheld from auctions, if CO<sub>2</sub> emission reduction costs are lower than projected. The states implementing the ECR will withhold up to 10 percent of their respective annual base budgets per year. The ECR trigger price will start at \$6.00 in 2021 and will increase by seven percent each year thereafter.

The model rule revisions eliminated two offset categories, the "SF6 Offset Category" and the "End-Use Energy Efficiency Offsets Category". The model rule revisions also updated and retained three offset categories that some states may continue to implement. While an individual state may choose to retain no, some, or all three eligible offset project categories, any offset allowances awarded by an individual state would remain fully fungible across all the participating states for compliance purposes. In the revisions to Part 242, New York is only retaining the offset provisions for avoided methane emissions from agricultural manure management operations.

Finally, the Program revisions will retain the interim compliance obligation. In addition to demonstrating full compliance at the end of each three-year compliance period, regulated entities will continue to have to demonstrate that they are holding allowances equal to at least 50 percent of their emissions at the end of each of the first two years in each three-year compliance period. The Program revisions also include minor revisions and updates to all references. The majority of the proceeds from the sale of New York's allowances will continue to be dedicated to strategic energy or consumer benefits, such as energy efficiency and clean energy technologies.

New York stakeholders raised concerns during our extensive outreach effort, that the cost of RGGI might result in increased operation at units not subject to the regulatory provisions of Part 242. To address this concern, New York is also expanding applicability under Part 242 to capture certain units that serve an electricity generator with a nameplate capacity equal to or greater than 15 megawatts (MW). This applicability expansion will apply to any unit 15 MW or greater that resides at an existing CO<sub>2</sub> budget source, and to any 15 MW unit that resides at a facility where there are two or more units with a nameplate capacity of 15 MW or larger.

The nature of the Program revisions, generally described above and discussed more thoroughly in the accompanying Regulatory Impact Statement, is such that they clearly will not have an adverse impact on jobs and employment opportunities.

#### CATEGORIES AND NUMBERS AFFECTED

As indicated above, the Department, NYSERDA and DPS analyzed costs, including impacts to jobs, total Gross State Product and total Personal Income, associated with compliance with the revisions to Part 242. Modeling analysis and review was coordinated by RGGI Inc. and New York staff, and included input from energy and environmental representatives from the Participating States and each regional Independent Systems Operator.

To evaluate potential cost impacts of the reduced CO<sub>2</sub> emissions cap and budget adjustments, Integrated Planning Model (IPM®) modeling conducted by ICF International (ICF) was used to compare a future case

with the Program revisions (Program Case) to a Reference Case (Business as Usual scenario) to project how the regional electricity system would function if the Program remained unchanged and if the revisions were not implemented. The modeling assumptions and input data were developed with input from a stakeholder process, including representatives from the electricity generation sector, business and industry, environmental advocates and consumer interest groups. Subsequently, modeling results were presented to stakeholders for review and comment throughout the development of the Program revisions. For a greater explanation of NYSERDA's analysis and a summary of the IPM® modeling conducted by ICF, see Regulatory Impact Statement pages 53-72.

Utilizing New York's Investments of RGGI Allowance Proceeds and output data from IPM®, the REMI macroeconomic study estimates that the impact of the reduced CO<sub>2</sub> emissions cap, budget adjustments and the remainder of the Program revisions on jobs, the economy and electricity customer bills, in New York will be very small and generally positive. The REMI study estimates the cumulative change in employment in New York associated with the Program revisions will be about 23,234 job-years over the period 2017 to 2031. A job-year is equivalent to one person employed for one year.

Further, the REMI study estimates that the cumulative changes in New York's Gross State Product and Personal Income associated with the revisions to the Program will be about \$2.1 billion and \$1.2 billion, respectively (2015 dollars, calculated as the present value of estimated annual changes over the period 2017 to 2031, discounted at three percent per year to account for the time-value of money).

#### REGIONS OF ADVERSE IMPACT

A Statewide analysis of the impacts of these revisions on electricity prices in New York State was performed. Under the Model Rule Policy Case, New York's wholesale electricity prices (including both energy and capacity costs) are projected to be \$1.29/MWh (2015 dollars) higher in 2031 than the Reference Case, a three percent increase. While wholesale electricity prices are projected to increase, the energy savings realized as a result of New York's application of 35 percent of proceeds to energy efficiency projects offsets that increase and results in projected decreases in bills over time. For a typical New York residential customer (using 530 kWh per month), the projected increase in wholesale electricity prices in 2031 translates into a monthly retail bill decrease of about 0.4 percent or a \$0.36 savings. In 2020, the projected increase in wholesale electricity prices translates into a monthly residential retail bill increase of about 0.1 percent or \$0.05. For commercial customers, the projected retail price impact of RGGI is about 0.0 percent in 2016 and -1.3 percent in 2031 (-\$0.13 and -\$5.93 per month, respectively). For industrial customers, the projected retail price impact of RGGI is about -0.7 percent in 2020 and -5.7 percent in 2031.

#### MINIMIZING ADVERSE IMPACT

The Department will implement the Program revisions through a cap-and-invest program because allowance-based cap-and-invest systems are a cost-effective means for implementing emission reductions from large stationary sources. The regulatory flexibility inherent in a cap-and-invest program, as well as the flexibility provided under the revisions to the Program, including the CCR and Offset provisions, helps to ensure continued reliability and adequacy of the State's electricity supply, assists in the furtherance of public health, and is necessary for continued industrial development and preservation of physical property, while minimizing any potential adverse employment impacts.

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

#### Assessment of Public Comment

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States and is the first mandatory, market-based carbon dioxide (CO<sub>2</sub>) emissions reduction program in the United States. Since its inception in 2008, RGGI has utilized a market-based mechanism to cap and cost-effectively reduce emissions that cause climate change. Recently, New York along with the Participating States completed a comprehensive program review and announced a proposal to lower the regional emissions cap established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030. Accordingly, New York and the then-Participating States committed to propose revisions, pursuant to state-specific regulatory processes, to their respective CO<sub>2</sub> Budget Trading Programs to further reduce CO<sub>2</sub> emissions from power plants in the region. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) proposed revising 6 NYCRR Part 242, CO<sub>2</sub> Budget Trading Program (the Program) and 6 NYCRR Part 200, General Provisions.

The Department proposed revisions to Part 242 on April 29, 2020. The

public comment period closed at 5:00 P.M. on June 29, 2020. The Department received written and video comments from just over 500 commenters on the proposed revisions to Part 242 and on the New York State Energy Research and Development Authority's (NYSERDA's) May 13, 2020 proposal for 6 NYCRR Part 507, "CO2 Allowance Auction Program". All of these comments have been reviewed, summarized, and responded to by the Department and/or NYSEDA.

The vast majority of commenters, while supportive of the revisions to the Program, emphasized the need to align the revisions with the Climate Leadership and Community Protection Act (CLCPA). Most notably, comments on specific aspects of the proposed revisions to the Program addressed the reduction in the CO2 emission cap relative to the goals and requirements of the CLCPA, the process and use of RGGI CO2 allowance auction proceeds by NYSEDA and the need to dedicate a minimum percentage of the overall benefits of such investments to disadvantaged communities in accordance with the CLCPA, the applicability expansion to certain units 15 megawatts (MW) and larger and the need to cover additional sources, as well as the need for transparency in emission reporting. A couple of commenters expressed some technical concerns regarding the Third Adjustment for Banked Allowances (TABA). The Department's responses to these and all other comments received are summarized below.

First, a substantial number of comments were received asking the Department to ensure that the reduction targets under the Program reflect the greenhouse gas (GHG) emissions reduction and renewable energy requirements of the CLCPA. In response the Department recognized that additional GHG emission reductions from power plants beyond those addressed in the revisions to Part 242 will be necessary on a Statewide basis to meet the requirements of the CLCPA. The Department noted that the CO2 budgets established are consistent with the State's commitment to implement the proposed changes previously announced by RGGI participating states. Furthermore, the next program review scheduled to begin in 2021 will allow New York to factor the CLCPA's requirements and process in that review.

Second, a substantial number of commenters also noted that the Program should ensure that RGGI proceeds are invested in ways that prioritize frontline, environmental justice, and disadvantaged communities, with at least 40% of the revenue dedicated to projects and programs that directly benefit disadvantaged communities. The Department's response acknowledged that the percentage and process for distribution of proceeds are addressed in a companion rulemaking, 21 NYCRR Part 507, proposed by NYSEDA on May 13, 2020. NYSEDA responded that the changes to Part 507 mandate that disadvantaged communities receive 40%, and no less than 35%, of the overall benefits from the investment of the CO2 Allowance Auctions proceeds, consistent with the CLCPA. By preserving this 40% overall benefits goal and 35% minimum, the changes to Part 507 ensure that future RGGI proceeds will be invested in ways that prioritize benefits to these communities. NYSEDA further noted that the Climate Justice Working Group (CJWG) established by the CLCPA is tasked with developing a definition and list of disadvantaged communities.

A couple of commenters, while noting that the Program reduced the number of offset categories, offered suggestions about the potential for additional offset categories in the future with a primary focus on farming. The Department responded by indicating it would take this potential for additional offsets under the RGGI program into consideration during the next RGGI program review. The Department also noted that the Agriculture and Forestry Advisory Panel of the CAC is considering various policies to further reduce or sequester GHG emissions from this sector, as part of the overall implementation of the CLCPA.

A couple of commenters suggested that the Department should track and report emissions of CO2 and co-pollutants from affected sources in a transparent manner. The Department responded that emissions for facilities are already posted on a quarterly basis in a transparent manner in the RGGI CO2 Allowance Tracking System (COATS) found at: <https://rggi-coats.org/eats/rggi/>. In addition, co-pollutant emissions, including criteria pollutants and hazardous air pollutants, are posted to the Open NY website at: <https://data.ny.gov/Energy-Environment/Title-V-Emissions-Inventory-Beginning-2010/4ry5-tfn>.

While a number of commenters approved of the Program revisions to expand applicability to units 15 MW, they suggested a further applicability expansion to units smaller than 15 Mw given the disproportionate impact these facilities have on environmental justice communities. The Department noted that the CLCPA includes multiple provisions that recognize that historically disadvantaged communities often suffer disproportionate and inequitable impacts from climate change, and that the revisions to Part 242 to expand its applicability are consistent with those provisions. The Department added that it will consider further expansion of the applicability provisions in Part 242 as part of the next RGGI program review. In addition to factoring in the requirements of the CLCPA process, this will allow the Department to be informed by the deliberations and actions of the CJWG established by the CLCPA, including the

CJWG's identification of disadvantaged communities pursuant to the statute.

Two commenters had concerns with the timing of and with specific language in the revisions to Part 242 for the TABA. The Department agreed with both commenters that there was a typographical error in the definition for TABA and made the correction to reflect the correct date of March 15, 2021 in the final rule. The Department also addressed both commenters' concerns about the timing of the TABA relative to final compliance true-up, by noting that all compliance account holdings are known and frozen as of March 1st and that the remaining information, such as emissions, will be readily available on March 15th. Lastly, the Department added text to further clarify that the TABA would properly account for interim compliance for 2018 and 2019.

One commenter mentioned in detail that practices that improve on-farm resiliency represent great untapped potential in climate policy in New York and that a soil health program should be a major component of or companion parallel program to any serious effort to address climate change. Another urged measures to help farmers sequester carbon in soils and site wind turbines. In response, while outside the scope of this rulemaking, the Department recognized that additional GHG emission reductions will be informed by the deliberations of the CAC pursuant to the CLCPA and noted that the Agriculture and Forestry Advisory Panel of the CAC is considering various policies to further reduce or sequester GHG emissions from this sector, as part of the overall implementation of the CLCPA.

One commenter indicated that they supported the revisions to the Cost Containment Reserve (CCR) but noted that the Department should consider moving the CCR under the cap during the next program review. In response, the Department and NYSEDA noted they will work with the other RGGI participating states to evaluate all aspects of the Program as part of the next RGGI program review, including whether to continue to include the CCR above the cap or bring it underneath the cap. Another commenter suggested that the Department use the non-baseload or marginal emission rate in calculating the allowance surrender under the Voluntary Renewable and Eligible Biomass Set-Aside provisions of the Program. Similar to previous responses, the Department replied that this would be considered during the next program review.

One commenter raised concerns about the lack of solar on state and municipal buildings. While outside the scope of this rulemaking, the Department noted that this would be addressed by various advisory panels of the CAC as part of the overall implementation of the CLCPA.

Lastly, one commenter had a number of concerns and disagreements with the justification to support the revisions to Part 242; the resources cited in the Regulatory Impact Statement for the need and benefits from reductions in GHGs and co-pollutants; the reductions attributable to the Program; the proposed applicability expansion to units 15 MW and larger; the revised budgets, cap decline and potential allowance shortage; impacts of a binding cap and anticompetitive behavior; apportionment; impacts of the Program on Jamestown and Freeport; and other miscellaneous comments that were outside of the scope of the revisions to the Program.

In response to the first concern, the Department respectfully disagreed with the commenter's conclusions and noted that there is overwhelming scientific evidence that action to address climate change is necessary. In response to the reports cited, the Department reiterated that the science is clear and that the cited reports should be considered as additional background in support of the rulemaking. In its response to the reductions attributable to the cap over time, the Department noted that while other market drivers may have contributed to GHG reductions, the cap ensures that such reductions are maintained. To address the concerns about applicability expansion, the Department mostly agreed with the commenter's analysis regarding the quantity of facilities and emissions covered by the expansion, while replying that the expansion would be retained because it adds a carbon price to these sources and brings their emissions underneath the cap as part of the State's continued efforts to address climate change.

The Department addressed this commenter's concerns about the revised budgets and cap decline by noting that actual CO2 emissions continue to be well below the regional cap for all participating states. Any concerns about an allowance shortfall are addressed by the fact that this beneficial emission trend continued since the completion of program review, existing Program flexibility, and the 10 percent of additional allowances that could be added to the market under the CCR. To address the commenter's concerns about a binding cap and anti-competitive behavior, the Department noted that while the potential for this behavior may increase as the surplus of allowances decreases, the market monitor would continue to evaluate the market for this type of behavior. The Department added that the potential for anti-competitive behavior is diminished by important Program design elements, including the CCR, emission containment reserve (ECR), relatively long compliance periods, the size and scope of the overall Program, and low barriers to access to the allowance market. To address the apportionment comment, the Department replied that the

environmental benefits of the Program are set by the regional cap and other design elements, and that apportionment is the manner in which that regional cap is split between participating states. While the Department agreed with and modified the RIS to address the commenter's concerns about the range of compliance options available to Jamestown and Freeport, the Department made it clear that the cost of a CO2 allowance does not constitute a tax. Lastly, the Department replied accordingly when a comment was outside the scope of the proposed Program revisions.

## Department of Financial Services

### EMERGENCY RULE MAKING

#### Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure

**I.D. No.** DFS-50-20-00002-E

**Filing No.** 859

**Filing Date:** 2020-11-27

**Effective Date:** 2020-11-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 52.16 of Title 11 NYCRR.

**Statutory authority:** Financial Services Law, sections 202, 302; Insurance Law, sections 301, 3216, 3217, 3221 and 4303

**Finding of necessity for emergency rule:** Preservation of public health and general welfare.

**Specific reasons underlying the finding of necessity:** Governor Andrew M. Cuomo declared a state of emergency on March 7, 2020, which has been extended, to help New York more quickly and effectively contain the spread of the novel coronavirus ("COVID-19"). While the COVID-19 pandemic has had an immeasurable impact on all New Yorkers, the impact on essential workers, including health care workers, first responders and other frontline essential workers, has been especially difficult as they have been required to directly interact with the public while working during this public health emergency, exposing themselves and their families to incremental risks, to ensure that essential services continue to be available for all New Yorkers. For health care workers and first responders, in particular, witnessing the devastating effects of COVID-19 firsthand can take an emotional and psychological toll. This amendment prohibits authorized insurers and health maintenance organizations (collectively, "health care plans") that provide comprehensive coverage for hospital, surgical, or medical care from imposing, and provides that no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles (unless required by federal law for a high deductible health plan) for mental health services rendered by in-network providers on an outpatient basis for essential workers. The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network mental health providers ("providers") to ensure that the providers do not require an insured to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment.

Given the continued toll this crisis has had on essential workers, including health care workers, first responders and other frontline essential employees, it is essential that these workers have access to mental health services. The waiver of copayments, coinsurance, and annual deductibles for in-network mental health services rendered by in-network providers on an outpatient basis is necessary to ensure that these workers have no barriers to the care they need.

To ensure that essential workers have access to mental health services, it is imperative that this amendment be promulgated on an emergency basis for the preservation of public health and general welfare.

**Subject:** Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure.

**Purpose:** To waive copayments, coinsurance, and annual deductibles for essential workers for in-network outpatient mental health services.

**Text of emergency rule:** Section 52.16(r) is added as follows:

(r)(1) No policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles for an in-network outpatient mental health service, unless the policy or contract is a high

deductible health plan as defined in Internal Revenue Code section 223(c)(2), in which case the service may be subject to such plan's annual deductible if otherwise required by federal law.

(2) An insurer shall provide written notification, which may include e-mail, to its in-network outpatient mental health providers that they shall not collect any deductible, copayment, or coinsurance from an essential worker in accordance with this subdivision. Such notice shall include the definition of essential worker.

(3) Essential worker means:

(i) individuals who are or were, on or after March 7, 2020, employed as health care workers, first responders, or in any position within a nursing home, long-term care facility, or other congregate care setting, including:

- (a) correction/parole/probation officers;
- (b) direct care providers;
- (c) firefighters;
- (d) health care practitioners, professionals, aides, and support staff (e.g., physicians, nurses, and public health personnel);
- (e) medical specialists;
- (f) nutritionists and dietitians;
- (g) occupational/physical/recreational/speech therapists;
- (h) paramedics/emergency medical technicians;
- (i) police officers;
- (j) psychologists/psychiatrists; and
- (k) residential care program managers; and

(ii) individuals who are or were, on or after March 7, 2020, employed as essential employees who directly interact or interacted with the public while working, including:

- (a) animal care workers (e.g., veterinarians);
- (b) automotive service and repair workers;
- (c) bank tellers and other bank workers;
- (d) building code enforcement officers;
- (e) childcare workers;
- (f) client-facing case managers and coordinators;
- (g) counselors (e.g., mental health, addiction, youth, vocational, and crisis);
- (h) delivery workers;
- (i) dentists and dental hygienists;
- (j) essential construction workers at occupied residences or buildings;

- (k) faith-based leaders (e.g., chaplains and clergy members);
- (l) field investigators/regulators for health and safety;
- (m) food service workers;
- (n) funeral home workers;
- (o) hotel/motel workers;
- (p) human services providers;
- (q) laundry and dry-cleaning workers;
- (r) mail and shipping workers;
- (s) maintenance and janitorial/cleaning workers;
- (t) optometrists, opticians, and supporting staff;
- (u) retail workers at essential businesses (e.g., grocery stores, pharmacies, convenience stores, gas stations, and hardware stores);
- (v) security guards and personnel;
- (w) shelter workers and homeless support staff;
- (x) social workers;
- (y) teachers/professors/educators;
- (z) transit workers (e.g., airports, railways, buses, and for-hire vehicles);
- (aa) trash and recycling workers; and
- (bb) utility workers.

**This notice is intended** to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires January 26, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Tobias Len, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 486-7815, email: Tobias.Len@dfs.ny.gov

#### Regulatory Impact Statement

1. Statutory authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 3216, 3217, 3221, and 4303.

Financial Services Law Section 202 establishes the office of the Superintendent of Financial Services ("Superintendent").

Financial Services Law Section 302 and Insurance Law Section 301, in pertinent part, authorize the Superintendent to prescribe regulations interpreting the Insurance Law and to effectuate any power granted to the Superintendent in the Insurance Law, Financial Services Law, or any other law.

Insurance Law Section 3216 sets forth the standard provisions in individual accident and health insurance policies.

Insurance Law Section 3217 authorizes the Superintendent to issue

regulations to establish minimum standards for the form, content and sale of health insurance policies and subscriber contracts of corporations organized under Insurance Law Articles 32 and 43 and Public Health Law Article 44.

Insurance Law Section 3221 sets forth the standard provisions in group and blanket accident and health insurance policies.

Insurance Law Section 4303 sets forth mandatory benefits in subscriber contracts issued by corporations organized under Insurance Law Article 43.

2. Legislative objectives: Insurance Law Sections 3216, 3217, 3221, and 4303 establish the minimum standards for the form, content, and sale of health insurance, including standards of full and fair disclosure. This amendment accords with the public policy objectives that the Legislature sought to advance in the foregoing Insurance Law provisions by prohibiting copayments, coinsurance, or annual deductibles, unless required by federal law for a high deductible health plan, for an in-network outpatient mental health service otherwise covered under the policy for an essential worker.

3. Needs and benefits: While the COVID-19 pandemic has had an immeasurable impact on all New Yorkers, the impact on essential workers, including health care workers, first responders and other frontline essential workers, has been especially difficult as they have been required to directly interact with the public while working during this public health emergency, exposing themselves and their families to incremental risks, to ensure that essential services continue to be available for all New Yorkers. For health care workers and first responders, in particular, witnessing the devastating effects of COVID-19 firsthand can take an emotional and psychological toll. The emotional and psychological well-being of essential workers is extremely important in the continuing fight against COVID-19. It is critical that these workers receive the mental health services they need.

This amendment provides that no policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles, unless required by federal law for a high deductible health plan, for an in-network outpatient mental health service.

The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network health care providers ("providers") in order to ensure that the providers do not require an insured to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment.

The Department of Financial Services ("Department") expects every health care plan to reimburse a provider, including reimbursement for the insured's waived copayment, coinsurance, or annual deductible, with respect to any affected claims.

Given the continued toll that this crisis has had on essential workers, including health care workers, first responders and other frontline essential employees, it is essential that these workers have access to mental health services. The waiver of copayments, coinsurance, and annual deductibles for mental health services rendered by in-network providers on an outpatient basis is necessary to ensure that these workers have no barriers to the care they need.

4. Costs: A health care plan subject to this amendment will have to assume the cost of copayments, coinsurance or permissible annual deductibles that the amendment waives for essential workers that obtain in-network outpatient mental health services.

A health care plan also may incur costs associated with providing written notification of the amendment to its in-network providers, as required by the amendment. In addition, a health care plan may incur costs if it needs to file new policy and contract forms and rates with the Department to comply with the amendment. However, such costs should be minimal because health care plans submit policy or contract form and rate filings, and provide written notifications to providers, as a part of the normal course of business.

Providers may incur costs to comply with the amendment because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services. However, any such costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

This amendment may impose compliance costs on the Department because the Department will need to review amended policy and contract forms and rates. However, any additional costs incurred by the Department should be minimal, and the Department should be able to absorb the costs in its ordinary budget.

5. Local government mandates: The amendment does not impose any program, service, duty or responsibility on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: Health care plans are required to provide written notification to their in-network providers that the providers may not collect any deductible, copayment, or coinsurance for outpatient mental health services for essential workers. This notification may be provided electronically as part of existing communications that occur between health care plans and in-network providers. Health care plans may also need to file new policy and contract forms and rates with the Superintendent.

Providers should not incur additional paperwork to comply with this amendment.

7. Duplication: This amendment does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements.

8. Alternatives: There are no significant alternatives to consider.

9. Federal standards: The amendment does not exceed any minimum standards of the federal government for the same or similar subject areas. If the policy or contract is a high deductible health plan as defined in Internal Revenue Code Section 223(c)(2), in-network outpatient mental health services may be subject to the annual deductible, if otherwise required by federal law.

10. Compliance schedule: The rule will take effect immediately upon filing of the Notice of Emergency Adoption with the Secretary of State.

#### **Regulatory Flexibility Analysis**

1. Effect of rule: The amendment affects health maintenance organizations and authorized insurers (collectively, "health care plans") and health care providers ("providers"). The amendment provides that no policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker, as defined by the amendment, shall be required to pay, copayments, coinsurance, or annual deductibles, unless required by federal law for a high deductible health plan, for an in-network outpatient mental health service. The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network providers to ensure that the providers do not require an insured essential worker to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment. This notification should ensure that providers do not collect a copayment, coinsurance, or annual deductible for outpatient mental health services as prohibited by this amendment.

Industry asserts that certain health care plans subject to the amendment are small businesses. Providers also may be small businesses. As a result, certain health care plans and providers that are small businesses may be affected by this amendment.

This amendment does not affect local governments.

2. Compliance requirements: No local government will have to undertake any reporting, recordkeeping, or other affirmative acts to comply with this amendment because the amendment does not apply to any local government.

A health care plan that is a small business, if any, affected by this amendment may be subject to reporting, recordkeeping, or other compliance requirements as it will be required to provide written notification of the amendment to its in-network providers, and may need to file new policy and contract forms and rates with the Department of Financial Services ("Department") to comply with the amendment.

A provider that is a small business may be subject to reporting, recordkeeping, or other compliance requirements because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services.

3. Professional services: No local government will need professional services to comply with this amendment because the amendment does not apply to any local government. No health care plan or provider that is a small business affected by this amendment should need to retain professional services, such as lawyers or auditors, to comply with this amendment.

4. Compliance costs: No local government will incur any costs to comply with this amendment because the amendment does not apply to any local government. A health care plan that is a small business, if any, will incur costs to comply with the amendment because it will have to assume the cost of copayments, coinsurance or permissible annual deductibles that the amendment waives for essential workers who obtain in-network outpatient mental health services.

A health care plan that is a small business, if any, also may incur costs associated with providing written notification of the amendment to its in-network providers, as required by the amendment. In addition, a health care plan may incur costs if it needs to file new policy and contract forms and rates with the Department to comply with the amendment. However, such costs should be minimal because health care plans submit policy or contract form and rate filings, and provide written notifications to providers, as a part of the normal course of business.

A provider that is a small business may incur costs to comply with the

amendment because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services. However, any such costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

5. Economic and technological feasibility: This amendment does not apply to any local government; therefore, no local government should experience any economic or technological impact as a result of the amendment. A health care plan and a provider that is a small business should not incur any economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: There will be no adverse impact on any local government because the amendment does not apply to any local government. This amendment should not have an adverse impact on a health care plan or provider that is a small business because the amendment affects all health care plans and providers uniformly. In addition, a provider that is a small business should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

7. Small business and local government participation: The Department of Financial Services ("Department") had notified trade associations representing health care plans that are small businesses that it intended to promulgate the amendment. Health care plans and providers that are small businesses also will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

#### **Rural Area Flexibility Analysis**

1. Types and estimated numbers of rural areas: Authorized insurers and health maintenance organizations (collectively, "health care plans") and health care providers ("providers") affected by this amendment operate in every county in this state, including rural areas as defined by State Administrative Procedure Act Section 102(10).

2. Reporting, recordkeeping, and other compliance requirements; and professional services: A health care plan, including a health care plan in a rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements because the health care plan will be required to provide written notification of the amendment to its in-network providers, and may need to file new policy and contract forms and rates with the Department of Financial Services ("Department") to comply with the amendment.

A provider, including a provider in a rural area, may be subject to reporting, recordkeeping, or other compliance requirements because no essential worker, as defined in the amendment, shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services.

A health care plan or provider, including a health care plan or provider in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this amendment.

3. Costs: A health care plan, including a health care plan in a rural area, will have to assume the cost of copayments, coinsurance or permissible annual deductibles that the amendment waives for essential workers that obtain in-network outpatient mental health services.

A health care plan may also incur costs associated with providing written notification of the amendment to its in-network providers, as required by the amendment. In addition, a health care plan may incur costs if it needs to file new policy and contract forms and rates with the Department to comply with the amendment. However, such costs should be minimal because health care plans submit policy or contract form and rate filings, and provide written notifications to providers, as a part of the normal course of business.

Providers, including those in rural areas, may incur costs to comply with the amendment, because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services. However, any such costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

4. Minimizing adverse impact: This amendment uniformly affects health care plans and providers that are located in both rural and non-rural areas of New York State. The amendment should not have an adverse impact on rural areas.

5. Rural area participation: The Department had notified trade associations representing health care plans that are in rural areas that it intended to promulgate the amendment. Health care plans and providers in rural areas will also have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

#### **Job Impact Statement**

This amendment should not adversely impact jobs or employment opportunities in New York State. The amendment provides that no policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker, as defined in the amendment, shall be required to pay, copayments, coinsurance, or annual deductibles, unless required by federal law for a high deductible health plan, for an in-network outpatient mental health service. As a result, there should be no impact on jobs or employment opportunities.

## New York State Gaming Commission

### NOTICE OF ADOPTION

#### **Agency Rule for the Protection of Trade Secrets Submitted to the Gaming Commission**

**I.D. No.** SGC-33-20-00006-A

**Filing No.** 872

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 5400.2; addition of section 5400.3 to Title 9 NYCRR.

**Statutory authority:** Public Officers Law, section 87(4)(a); Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Agency rule for the protection of trade secrets submitted to the Gaming Commission.

**Purpose:** To prescribe the manner of safeguarding against any unauthorized access to records containing trade secrets.

**Text or summary was published** in the August 19, 2020 issue of the Register, I.D. No. SGC-33-20-00006-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

#### **Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

The agency received no public comment.

### NOTICE OF ADOPTION

#### **Addition of Feature to the Quick Draw Lottery Game Called "Money Dots"**

**I.D. No.** SGC-35-20-00002-A

**Filing No.** 871

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of sections 5013.1, 5013.4; repeal of section 5013.3; renumbering of section 5013.2 to 5013.3; addition of new section 5013.2 to Title 9 NYCRR.

**Statutory authority:** Tax Law, sections 1601, 1604; Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Addition of feature to the Quick Draw lottery game called "Money Dots."

**Purpose:** To raise additional revenue for education.

**Text or summary was published** in the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00002-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Triple Wager in Harness Racing**

**I.D. No.** SGC-35-20-00003-A

**Filing No.** 866

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Renumbering of section 4122.41 to 4122.40; amendment of new section 4122.40 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Triple wager in harness racing.

**Purpose:** To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government.

**Text or summary was published** in the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00003-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Restricting NSAID Use in Thoroughbred Racing**

**I.D. No.** SGC-35-20-00004-A

**Filing No.** 877

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 4043.2(d); repeal of section 4043.2(e)(14); renumbering of section 4043.2(e)(15) to (20); amendment of section 4043.3(a)(13), (23) of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Restricting NSAID use in Thoroughbred racing.

**Purpose:** To enhance the integrity, health and safety of Thoroughbred horse racing.

**Text or summary was published** in the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00004-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Furosemide Use and Practice**

**I.D. No.** SGC-35-20-00005-A

**Filing No.** 869

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 4043.2(b)(4), (5) of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Furosemide use and practice.

**Purpose:** To enhance horse racing in New York and generate reasonable revenue for the support of government.

**Text or summary was published** in the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00005-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The New York Racing Association, Inc. supports the adoption of the proposed rulemaking.

**NOTICE OF ADOPTION**

**Jackpot Super High Five Wager for Harness Racing**

**I.D. No.** SGC-35-20-00006-A

**Filing No.** 865

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Renumbering of section 4122.41 to 4122.40; addition of new section 4122.41 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Jackpot Super High Five wager for harness racing.

**Purpose:** To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government.

**Text or summary was published** in the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00006-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

## NOTICE OF ADOPTION

## EIPH Protections for Thoroughbred Horses

I.D. No. SGC-35-20-00007-A

Filing No. 870

Filing Date: 2020-12-01

Effective Date: 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 4043.17 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** EIPH protections for Thoroughbred horses.

**Purpose:** Enhance health and safety of Thoroughbred horses in pari-mutuel racing.

**Text of final rule:** § 4043.17. *Exercise Induced Pulmonary Hemorrhage (EIPH).*

(a) *Ineligibility to race after epistaxis.* A horse that has demonstrated external evidence or bled visibly from its nostrils (epistaxis) because of exercise induced pulmonary hemorrhage (EIPH) shall be placed on the Steward's list of horses that are ineligible to race. The horse may not race until cleared to race by a veterinarian designated by the commission and for the following minimum period of time after such bleeding:

(1) 1st epistaxis - 15 days;

(2) 2nd epistaxis - 30 days;

(3) 3rd epistaxis - 90 days, and if the third time was within 365 days, then exclusion for a minimum of 180 days;

(4) 4th epistaxis - one year, and if the fourth time was within 365 days, then permanent exclusion from racing.

(b) *Recording episodes of EIPH.* Trainers shall maintain accurate records of every EIPH episode that is serious, meaning epistaxis or grade four as described in subparagraph (iv) of paragraph (4) of this subdivision, whether observed as visible bleeding or by endoscopic examination. The trainer may delegate this responsibility to the treating veterinarian, who shall make such records of a serious EIPH episode when so designated. Such records shall be retained for a minimum of four years unless reported to the commission in a form and manner approved by the commission or provided to the next trainer of the horse. Each succeeding trainer of the horse shall retain any such record of an EIPH episode that occurred in the previous four years.

(c) *Disclosure to subsequent owners.* Previous serious EIPH episodes shall be disclosed to the next owner or trainer of a horse within 48 hours of a request for such information, unless the commission has provided such information to the next owner or trainer of the horse.

(d) *Required endoscopic examinations.* A horse that experiences a serious EIPH episode must have, at the conclusion of the horse's next workout or race, an endoscopic examination performed by a qualified veterinarian, who shall make a record of findings and rate the degree of pulmonary hemorrhage on the scale set forth in this paragraph, with a zero for no blood:

(1) one (1/4) - a trace or thin line of blood on the floor of the trachea;

(2) two (2/4) - a wide stripe of blood on the floor of the trachea or multiple streams of blood covering less than 1/3 of the trachea;

(3) three (3/4) - multiple distinct streams of blood covering more than 1/3 of the trachea;

(4) four (4/4) - multiple streams of blood covering 90 percent or more of the trachea with pooling at the thoracic inlet; or

(5) epistaxis - blood is evident in a nostril of the horse.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 4043.2(c), (d) and 4043.17.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

The non-substantive change in the rule section number in the adopted rule in comparison to the rulemaking proposal does not necessitate a revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

The simultaneous adoption of another rulemaking (designated as SGC-35-20-00014) would have created two subdivision (d)s in section 4043.2 of title 9 of the NYCRR. Therefore, this rulemaking as adopted is changed to put the identical language of the rule text as proposed into a new section

4043.17, instead of into a new subdivision (c) of section 4043.2 with the current subdivision (c) becoming a new subdivision (d). The change does not alter the text of the rule.

The adopted rule will have no adverse effect on small businesses, local governments, jobs, or rural areas. As is apparent from the non-substantive change, it will have no impact beyond that stated in the Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement of the Notice of Proposed Rule Making.

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

One public comment was received from New York Racing Association, Inc. ("NYRA"). NYRA stated that while it supports the objective of the rule proposal, it believes that the proposal does not go far enough to safeguard horses that experience serious episodes of EIPH because the recordkeeping requirement should have an enforcement mechanism with penalties set forth in the rule. The Commission, however, will establish appropriate penalties both through its administrative discretion and the adjudicatory process in specific cases pursuant to the authority vested in the Commission by Racing, Pari-Mutuel Wagering and Breeding Law section 220(2) and the Commission rules at 9 NYCRR §§ 4002.1(c), 4002.9(a) and 4022.12.

## NOTICE OF ADOPTION

## Medical Fitness of Thoroughbred Horse Riders and Steeplechase Jockey Licensing

I.D. No. SGC-35-20-00008-A

Filing No. 864

Filing Date: 2020-12-01

Effective Date: 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Renumbering of sections 4002.26, 4002.27 to sections 4002.27, 4002.28; amendment of new sections 4002.27, 4002.28; addition of sections 4002.26, 4002.29, 4002.30, 4002.31, 4002.32 and Part 4067 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Medical fitness of Thoroughbred horse riders and Steeplechase jockey licensing.

**Purpose:** To improve health and safety in Thoroughbred pari-mutuel racing.

**Text or summary was published** in the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00008-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

## NOTICE OF ADOPTION

## Backstretch Housing Standards at Racetracks

I.D. No. SGC-35-20-00009-A

Filing No. 862

Filing Date: 2020-12-01

Effective Date: 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Repeal of Part 4047; addition of Chapter I, Subchapter I, Part 4560 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103, 104(1) and (19)

**Subject:** Backstretch housing standards at racetracks.

**Purpose:** To enhance the integrity of racing and safety of pari-mutuel racing.

**Text or summary was published in** the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00009-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Log of Drugs Administered by Thoroughbred Horse Trainers**

**I.D. No.** SGC-35-20-00010-A

**Filing No.** 868

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 4043.4(c) to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Log of drugs administered by Thoroughbred horse trainers.

**Purpose:** To enhance the integrity and safety of Thoroughbred horse racing.

**Text or summary was published in** the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00010-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Pick-Six Jackpot Wager for Harness Racing**

**I.D. No.** SGC-35-20-00011-A

**Filing No.** 863

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 4122.47 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Pick-six jackpot wager for harness racing.

**Purpose:** To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government.

**Text or summary was published in** the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00011-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Restrictions on Wagering by Key Employees of Casino Vendors**

**I.D. No.** SGC-35-20-00012-A

**Filing No.** 873

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 5300.3 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1305(2), 1326(4) and 1336(1)

**Subject:** Restrictions on wagering by key employees of casino vendors.

**Purpose:** To maintain the integrity of the gaming facilities.

**Text or summary was published in** the September 2, 2020 issue of the Register, I.D. No. SGC-35-20-00012-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The Gaming Commission received general comments from one entity, Rivers Casino in Schenectady, in regard to this proposed rulemaking. The Commission has considered the comments received.

Rivers Casino states that if a vendor employee is qualified under applicable licensing and registration standards, as statutes require, the employee should be deemed to have the character and financial stability to gamble as a casino patron. Rivers Casino states that the concept of "appearance of impropriety" is "antiquated" and should not apply to private businesses. Rivers Casino states further that its employees would have difficulty enforcing such a gaming restriction because they would not know who a vendor employee might be. Rivers Casino states that a vendor employee involved in gaming operations would have no advantage in playing the games over other patrons. Rivers Casino also asserts that there would be a cost to the rule, insofar as restricting a potential patron from playing would mean a casino would forgo gaming revenue and, as a result, the State would lose tax revenue. Rivers also questions who would be responsible for enforcing the restriction and asks whether a licensed casino might be in jeopardy of a violation if a vendor employee violated the restriction.

The proposed rule is intended to standardize gaming restrictions by treating all persons who perform gaming-related roles at a casino similarly, whether employed by the casino itself or a casino vendor. Restrictions on casino employees gambling as patrons advance the policy of promoting public confidence in the integrity of gaming. A casino employee gambling and winning at the casino has the potential to diminish public confidence in the fairness of games that "insiders" are playing, even if, in fact, there would be no actual advantage to the casino employee who plays. The qualifier standards set forth in statute are standards to perform the role of servicing a casino, not standards for participating in gaming. Casinos forgo revenue whenever they comply with wagering restrictions (e.g., excluding underage patrons, self-excluded persons, involuntarily excluded persons and their own employees). Revenue implications, which the Commission believes would be minimal in this context, should not drive an integrity-related rule. Finally, the Commission believes that enforcement of this rule would be a joint responsibility of the Commission, its licensees and the restricted employees. The restricted employee, the registered vendor and the casino might each be culpable for a violation, depending on the facts and circumstances of a given violation. The Commission determined to adopt the rule as proposed.

## NOTICE OF ADOPTION

**Amend the Out-of-competition Testing Rule for Thoroughbred Racing**

I.D. No. SGC-35-20-00014-A

Filing No. 876

Filing Date: 2020-12-01

Effective Date: 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 4012.5 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

**Subject:** Amend the out-of-competition testing rule for thoroughbred racing.

**Purpose:** To enhance the integrity and safety of thoroughbred horse racing.

**Text of final rule:** Section 4012.5 of 9 NYCRR is repealed and replaced, as follows:

§ 4012.5. *Out-of-competition testing.*

(a) *Out-of-competition testing authorized.* The commission may at a reasonable time on any date take blood, urine or other biologic samples (e.g., hair) from a horse to enhance the ability of the commission to enforce the commission's equine drug and anti-doping rules (e.g., the prohibitions of section 4043.12 of this Article). The commission shall own such samples. This rule authorizes only the collection and testing of samples and does not independently make impermissible the administration to or presence in any horse of any drug or other substance. A race-day prohibition or restriction of a substance by a commission rule is not applicable to an out-of-competition test unless there is an attempt to race the horse in a manner that violates such rule.

(b) *Horses eligible to be tested.* Any horse that has been engaging in activities related to competing in pari-mutuel horse racing in New York may be tested. This includes without limitation any horses that are training outside the jurisdiction to participate in racing in New York and all horses that are training in New York, but excludes weanlings, yearlings and horses no longer engaged in horse racing (e.g., retired broodmares).

(1) A horse is presumed eligible for out-of-competition testing if such horse:

- (i) is on the grounds at a racetrack or training center under the jurisdiction of the commission;
- (ii) is under the care or control of a trainer licensed by the commission;
- (iii) is owned by an owner licensed by the commission;
- (iv) is entered or nominated to race at a premises licensed by the commission;
- (v) has raced within the previous 12 months at a premises licensed by the commission; or
- (vi) is nominated to a program based on racing in New York, including without limitation breeders' awards, the thoroughbred breeding and development fund and thoroughbred stakes races.

(2) Such presumptions are conclusive in the absence of evidence that a horse is not engaged in activities related to competing in horse racing in New York State.

(c) *Selection of horses to be tested.*

(1) Horses shall be selected for sampling by a commission veterinarian, executive director, director of horse racing and pari-mutuel wagering, equine medical director or steward, or a designee of any of the foregoing.

(2) Horses may be selected to be tested at random, for cause or as otherwise determined in the discretion of the commission.

(3) Collectors shall for suspicionless collections of samples abide by a plan that has been approved by a supervisor not in the field and that identifies specific horses or provides neutral and objective criteria to follow in the field to determine which horses to sample. Such a supervisor may consider input from persons in the field during the operation of the plan and select additional horses to be sampled.

(d) *Cooperation with the commission*

(1) Licensees of the commission are required to cooperate and comply fully with the provisions of this rule.

(2) Persons who apply for and are granted a trainer or owner license shall be deemed to have given their consent for access at such premises as their horse may be found for the purpose of commission representatives collecting out-of-competition samples. Licensees shall take any steps necessary to authorize access by commission representatives at such premises.

(3) No other person shall knowingly interfere with or obstruct a sampling.

(e) *General procedure for collecting samples.*

(1) Samples shall be taken under the supervision and direction of a person who is employed or designated by the commission. All blood samples shall be collected by a veterinarian licensed in the jurisdiction where the sample is collected or by a veterinary technician who is acting under appropriate supervision of the veterinarian.

(2) Upon request of a representative of the commission, the trainer, owner or the specified designee of the trainer or owner shall provide the location of their horses eligible for out-of-competition testing.

(3) The commission need not provide advance notice before arriving at any location to collect samples, whether such location is controlled by a commission licensee or not.

(4) The trainer, owner or the specified designee of the trainer or owner shall cooperate with the person who takes samples for the commission, which cooperation shall include, without limitation:

- (i) assisting in the immediate location and identification of the horse;
- (ii) making the horse available as soon as practical upon arrival of the person who is responsible for collecting the samples;
- (iii) providing a stall or other safe location to collect the samples;
- (iv) assisting the person who is collecting samples in properly procuring the samples; and
- (v) witnessing the taking of samples, including sealing of sample collection containers.

(5) The management and employees of a licensed racetrack or training facility at which a horse may be located shall cooperate fully with a person who is authorized to take samples. The person who collects samples for the commission may require that the collection be done at a specified location on such premises.

(6) The commission, if requested and in its sole discretion, may permit the trainer, owner or the specified designee of the trainer or owner to present a horse that is located in New York State, but not at a racetrack or training center licensed by the commission, to be sampled at a time and location designated by the commission.

(f) *Procedure for collecting samples from horses located outside New York State.*

(1) The commission may arrange for the sampling of an out-of-state horse by the racing commission or other designated person in the jurisdiction where the horse is located. Such racing commission or other designated person shall follow the relevant provisions of this rule, including paragraph (1) of subdivision (e) of this section.

(2) The test results shall be made available for regulatory use to each jurisdiction that has participated in the process of collecting any out-of-competition sample, subject to any restrictions on public disclosure of test results that apply to the commission that selected the horse for sampling.

(3) The commission, if requested and in its sole discretion, may permit the trainer or owner instead to transport the horse into New York State for sampling at a time and place designated by the commission.

(g) *Additional procedures.*

(1) The person who takes samples for the commission shall provide identification and disclose the purpose of the sampling to the trainer or designated attendant of the horse.

(2) A written protocol for the collection of samples shall be made generally available.

(3) An owner or trainer does not consent to a search of the premises by making a horse that is not located at a licensed racetrack available for sampling.

(4) If the trainer or other custodian of a selected horse refuses or declines to make the horse available for sampling and the managing owner has previously provided the commission with a means for the commission to give immediate notification to the managing owner in such situation, then the commission shall attempt to notify the managing owner and the eligibility of the horse shall be preserved if the managing owner is able to make the horse available for immediate sampling. The commission is not required to make repeated attempts to notify the managing owner.

(5) The chain-of-custody record for the sample shall be maintained and made available to the trainer, owner or the designee of the trainer or owner when an adjudicatory proceeding results from an out-of-competition test.

(h) *Analysis of collected samples.*

(1) The commission may have out-of-competition samples tested to produce information that may enhance the ability of the commission to enforce the commission's equine drug and anti-doping rules.

(2) The rules and procedures for post-race testing shall apply to out-of-competition testing.

(3) The commission may use any remaining sample for research and investigation.

(i) *Penalties for non-cooperation.*

(1) Willful failure to make a horse available for sampling or other willfully deceptive acts or interference in the sampling process shall carry

a minimum penalty of a one-year license suspension and be referred to the commission for further action.

(2) A selected horse that is not made available for out-of-competition sampling shall be placed on the Steward's List. The horse shall remain on the Steward's List for a minimum of 180 days unless the owner can establish extraordinary mitigating circumstances.

(3) A selected horse that is presumed eligible for out-of-competition testing shall be placed on the Steward's list and be ineligible to race in New York State for 180 days if the horse is not sampled upon the trainer, owner or the designee of the trainer or owner asserting that the horse is not engaged in activities related to competing in horse racing in New York State. This restriction shall not apply if the trainer, owner or the designee of the trainer or owner instead permits voluntarily an immediate collection of such samples from the horse, which shall not constitute a waiver of asserting that the commission lacks jurisdiction over the horse.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in section 4012.5(a).

**Text of rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

The non-substantive change made in subdivision (a) of section 4012.5 in the adopted rule in comparison to the rulemaking proposal does not necessitate a revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

The proposed rule stated that the purpose of the rule would be to enhance the ability of the agency to enforce its equine drug and anti-doping rules and gave an example of such rules, e.g., the prohibitions of section 4043.8 of the same Article. The adopted rule gives a different example of such rules, e.g., the prohibitions of section 4043.12 of the same Article. The change relates only to what example of the other rules is mentioned in section 4012.5; it does not change what other rules the proposal will make it easier for the agency to enforce. The change does not alter the meaning of the rule.

The adopted rule will have no adverse effect on small businesses, local governments, jobs, or rural areas. As is apparent from the non-substantive change, it will have no impact beyond that stated in the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement of the Notice of Proposed Rule Making.

**Initial Review of Rule**

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The agency received no public comment.

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Participation in the Management and Operation of Charitable Games of Chance**

**I.D. No.** SGC-50-20-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** This is a consensus rule making to amend section 4622.25 of Title 9 NYCRR.

**Statutory authority:** General Municipal Law, section 188-a(1); Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19)

**Subject:** Participation in the management and operation of charitable games of chance.

**Purpose:** To maintain integrity and accountability in the management and operation of games of chance.

**Text of proposed rule:** Section 4622.25 of 9 NYCRR would be amended to read as follows:

§ 4622.25. Qualifications of members in charge and assistants.

[No] As set forth in General Municipal Law sections 189(10) and 195-c,

(a) no person shall participate in the management of any game of chance unless such person [has been] is a bona fide member of the licensed authorized organization [for at least one year prior to the date of such license period.]; and

(b) [No] no person shall participate in the operation of any game of

chance unless such person [has been] is a bona fide member of the licensed authorized organization or its affiliate or auxiliary [for at least one year prior to such license period].

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 60 days after publication of this notice.

**This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.**

**Consensus Rule Making Determination**

The adoption of this proposed revision to the charitable gaming rules of the New York State Gaming Commission would eliminate the requirement in charitable gaming that a person participating in the management or operation of games of chance be a bona fide member of the authorized organization or auxiliary organization for at least one year prior to the organization's license period and cross-reference applicable statutes. Due to the non-controversial nature of this amendment, no person is likely to object to the revisions proposed by this amendment.

**Job Impact Statement**

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendment will not adversely affect jobs or employment opportunities.

The proposal will make only non-controversial amendments to the rule setting forth the membership requirements for persons to participate in the management or operation of games of chance for authorized organizations in which they are bona fide members.

The proposed amendments will not have an impact on jobs or employment opportunities and will not impose any adverse impact on jobs or employment opportunities.

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Contactless Payment Methods for Chances in Charitable Gaming**

**I.D. No.** SGC-50-20-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** This is a consensus rule making to amend section 4621.1; repeal section 4600.1(t) of Title 9 NYCRR.

**Statutory authority:** General Municipal Law, section 188-a(1); Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19)

**Subject:** Contactless payment methods for chances in charitable gaming.

**Purpose:** To promote public health and support of organizations authorized to operate games of chance.

**Text of proposed rule:** Subdivision (t) of section 4600.1 of 9 NYCRR would be repealed.

Section 4621.1 of 9 NYCRR would be amended to read as follows:

§ 4621.1. [Games of chance currency] *Permissible instruments for chance purchase.*

[Licensed authorized organizations may, in their discretion, use legal tender or a form of chip authorized by the commission in the conduct of games of chance.] *As set forth in General Municipal Law section 195-d(3), a player may purchase a chance with cash or, if the authorized organization wishes, with a personal check, credit card or debit card. As set forth in General Municipal Law section 186(20), games of chance currency in the form of scrip or chips authorized by the commission also may be used at the discretion of the games of chance licensee.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 60 days after publication of this notice.

**This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.**

**Consensus Rule Making Determination**

The adoption of this proposed revision to the charitable gaming rules of the New York State Gaming Commission would set forth the permissible methods of payment for chances in games of chance. The proposal would

cross-reference controlling statute and eliminate a duplicative provision. Due to the non-controversial nature of this amendment, no person is likely to object to the revisions proposed by this amendment.

**Job Impact Statement**

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendments will not adversely affect jobs or employment opportunities.

The proposal will make only non-controversial amendments to conform New York State Gaming Commission rules to controlling statutes that set forth permissible methods of payments for chances in games of chance.

The proposed amendments will not have an impact on jobs or employment opportunities and will not impose any adverse impact on jobs or employment opportunities.

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## Department of Health

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### EMERGENCY RULE MAKING

**Enforcement of Social Distancing Measures**

**I.D. No.** HLT-50-20-00001-E

**Filing No.** 858

**Filing Date:** 2020-11-27

**Effective Date:** 2020-11-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of Part 66 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 201, 206, 225; Executive Order 202.14

**Finding of necessity for emergency rule:** Preservation of public health, public safety and general welfare.

**Specific reasons underlying the finding of necessity:** The 2019 Coronavirus (COVID-19) is a disease that causes mild to severe respiratory symptoms, including fever, cough, and difficulty breathing. People infected with COVID-19 have had symptoms ranging from those that are mild (like a common cold) to severe pneumonia that requires medical care in a hospital and can be fatal. According to Johns Hopkins' Coronavirus Resource Center, to date, there have been over 8 million cases and 437,604 deaths worldwide, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

COVID-19 was found to be the cause of an outbreak of illness in Wuhan, Hubei Province, China in December 2019. Since then, the situation has rapidly evolved throughout the world, with many countries, including the United States, quickly progressing from the identification of travel-associated cases to person-to-person transmission among close contacts of travel-associated cases, and finally to widespread community transmission of COVID-19.

On January 30, 2020, the World Health Organization (WHO) designated the COVID-19 outbreak as a Public Health Emergency of International Concern. On a national level, the Secretary of Health and Human Services determined on January 31, 2020 that as a result of confirmed cases of COVID-19 in the United States, a public health emergency existed and had existed since January 27, 2020, nationwide. Subsequently, on March 13, 2020, President Donald J. Trump declared a national emergency in response to COVID-19, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

New York State first identified cases on March 1, 2020 and has since become the national epicenter of the outbreak. On March 7, 2020, with widespread transmission rapidly increasing within certain areas of the state, Governor Andrew M. Cuomo issued an Executive Order declaring a state disaster emergency to aid in addressing the threat COVID-19 poses to the health and welfare of New York State residents and visitors. With over 240,000 deaths and over 10 million cases in the country, this pandemic has had a devastating effect on the United States.

As part of ongoing efforts to address this pandemic, Governor Cuomo has issued Executive Orders to implement measures aimed at limiting the spread and/or mitigating the impact of COVID-19 within the state.

These regulations update previously filed emergency regulations consistent with the Governor's Executive Order that gyms as well as restaurants, bars and other businesses serving alcohol close at 10:00 pm daily. The regulations also clarify that employees of food service establish-

ments must wear a mask or face-covering at all times while at their place of work.

In light of this situation, these regulations are necessary to further implement social distancing measures to control the spread of communicable disease, in situations in which the Governor has declared a state disaster emergency.

**Subject:** Enforcement of Social Distancing Measures.

**Purpose:** To control and promote the control of communicable diseases to reduce their spread.

**Text of emergency rule:** The title of Part 66 is amended as follows:

**Immunizations and Communicable Diseases**

A new Subpart 66-3, titled COVID-19 Emergency Regulations, is added to read as follows:

**66-3.1 Duration and Applicability**

*The provision of this Subpart shall apply for the duration of any state disaster emergency declared pursuant to sections 28 and 29-a of the Executive Law related to the outbreak of COVID-19 in New York State. To the extent any provision of this Subpart becomes inconsistent with any Executive Order, the remainder of the provisions in this Subpart shall remain in effect and shall be interpreted to the maximum extent possible as consistent with such Executive Orders.*

**66-3.2 Face-Coverings**

(a) Any person who is over age two and able to medically tolerate a face-covering shall be required to cover their nose and mouth with a mask or face-covering when in a public place and unable to maintain, or when not maintaining, social distance.

(b) Any passenger of a public or private transportation carrier or other for-hire vehicle, who is over age two and able to medically tolerate a face covering, shall wear a mask or face-covering over the nose and mouth during any such trip; any employee of such public or private transportation carrier who is operating such public or private transport, shall likewise wear a mask or face-covering which covers the nose and mouth while there are any other passengers in such vehicle.

(c) Any employee who is present in the workplace shall be provided and shall wear a mask or face-covering when in direct contact with customers or members of the public, or when unable to maintain social distance. Employees of food service establishments must wear a mask or face-covering at all times while at their place of work. Businesses must provide, at their expense, such face coverings for their employees.

(d) Business operators and building owners, and those authorized on their behalf or otherwise authorized to use the building shall deny admittance to any person who fails to comply with this section and shall require or compel such persons' removal. Provided, however, that this regulation shall be applied in a manner consistent with the federal American with Disabilities Act, New York State or New York City Human Rights Law, and any other applicable provision of law.

(e) For purposes of this section:

(i) Face-coverings shall include, but are not limited to, cloth masks (e.g. homemade sewn, quick cut, bandana), surgical masks, and N-95 respirators.

(ii) A person shall be considered as maintaining social distancing when keeping at least six feet distance between themselves and any other persons, other than members of such persons' household.

**66-3.3 Non-essential gatherings**

(a) There shall be no non-essential gatherings of greater than ten individuals for any reason at any location in the state, including but not limited to parties, celebrations or other social events. This restriction may be modified by any Executive Order issued pursuant to Executive Law Section 28 and 29-A.

(b) No person, business, or other entity, shall encourage or promote any non-essential gathering including those on public property such as streets, sidewalks, parking lots, parks, playgrounds, or beaches, that would violate subdivision (a) of this section.

(c) There shall be no non-essential gatherings on sidewalks, streets or other public property within 100 feet of any food service establishment, or any business entity holding a liquor license from the State Liquor Authority.

(d) All non-essential gatherings that are permitted pursuant to this section shall comply with social distancing protocols and cleaning and disinfection guidelines issued by the Department.

(e) Subdivision (a) of this section shall not apply to any essential business, as defined by the New York State Department of Economic Development d/b/a Empire State Development (ESD), pursuant to the authority provided in Executive 202.6, or as further defined in this Subpart.

**66-3.4 Business operations**

(a) All businesses and not-for-profit entities in the state shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize. Except as may otherwise be permitted by any Executive Order issued pursuant to Executive Law Section 28 and 29-A implementing the phased re-opening of New York businesses and

the relaxation of social distancing rules by region, each employer shall reduce the in-person workforce at any work locations by 100%, provided that any essential business or entity providing essential services or functions shall not be subject to such in-person restrictions. An entity providing essential services or functions whether to an essential business or a non-essential business shall not be subjected to the in-person work restriction, but may operate at the level necessary to provide such service or function.

(b) Any business not otherwise described herein may be deemed essential after requesting an opinion from the Empire State Development Corporation, which shall review and grant such request, should it determine that it is in the best interest of the state to have the workforce continue at full capacity in order to properly respond to this disaster.

(c) Essential businesses include, but are not limited to, the following: essential health care operations including but not limited to any entity or individual licensed, certified, registered or otherwise approved pursuant to Articles 5, 28, 30, 35, 36 or 40 of the Public Health Law, or Articles 131, 131-B, 131-C, 137, 139, 140, 153, 154, 163, 164 or 165 of the Education Law, and any other research or laboratory services; essential infrastructure including utilities, telecommunication, airports and transportation infrastructure, and hotels and places of accommodation; essential manufacturing, including food processing and pharmaceuticals; essential retail including grocery stores and pharmacies; essential services including trash collection, mail, and shipping services; news media; banks and related financial institutions; providers of basic necessities to economically disadvantaged populations; construction; vendors of essential services necessary to maintain the safety, sanitation and essential operations of residences or other essential businesses; vendors that provide essential services or products, including logistics and technology support, child care and services needed to ensure the continuing operation of government agencies and provide for the health, safety and welfare of the public.

(d) Except as may otherwise be permitted or prohibited by Executive Order issued pursuant to Executive Law Section 28 and 29-A, no establishment licensed by the State Liquor Authority ("SLA") for on premises consumption of alcoholic beverages, licensed by the SLA pursuant to Sections 63 or 79 of the Alcoholic Beverage Control law, or permitted as a food service establishment pursuant to the State Sanitary Code, shall remain open between the hours of 10:00 p.m. and 5:00 a.m., except for the service of food and non-alcoholic beverages for curbside take out or delivery if otherwise permitted.

(e) Except as may otherwise be permitted by any Executive Order issued pursuant to Executive Law Section 28 and 29-A, all indoor common portions of retail shopping malls with in excess of 100,000 square feet of retail space available for lease shall remain closed. Any stores located within such shopping malls, which have their own external entrances open to the public, separate from the general mall entrance, and which are essential businesses may remain open, provided that any restaurant shall limit itself to take out or delivery food services, and that any interior entrances to common areas of the mall remain closed and locked.

(f) Except as may otherwise be prohibited or permitted by Executive Order issued pursuant to Executive Law Section 28 and 29-A, no gym or fitness center shall remain open between the hours of 10:00 p.m. and 5:00 a.m.

#### 66-3.5 Penalties

A violation of any provision of this Subpart is subject to all civil and criminal penalties as provided for by law. Individuals or entities that violate this Subpart are subject to a maximum fine of \$1,000 for each violation; provided that individuals or entities who violate section 66-3.3(a) or (b) shall be subject to a maximum fine of \$15,000 for each violation. For purposes of civil penalties, each day that there is a non-essential gathering or that an entity operates in a manner inconsistent with the Subpart shall constitute a separate violation under this Subpart.

A new section 2.60 is added to read as follows:

#### 2.60. Enforcement of Social Distancing Measures.

For purposes of civil enforcement, the provisions of Subpart 66-3 of this Title are incorporated herein, and a violation of the provisions of Subpart 66-3 shall be deemed a violation of this Chapter. All local health officers shall take such steps as may be necessary to enforce the provisions of Subpart 66-3 in accordance with the Public Health Law and this Chapter.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires February 24, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

#### Regulatory Impact Statement

Statutory Authority:

The statutory authority for adding a new Subpart 66-3 is sections 201

and 206 of the Public Health Law. The statutory authority for adding new section 2.60 is section 225 of the Public Health Law.

#### Legislative Objectives:

The legislative objective of PHL § 201 includes authorizing the New York State Department of Health ("Department") to control and promote the control of communicable diseases to reduce their spread. Likewise, the legislative objective of PHL § 206 includes authorizing the Commissioner of Health to take cognizance of the interests of health and life of the people of the state, and of all matters pertaining thereto and exercise the functions, powers and duties of the department prescribed by law, including control of communicable diseases. The legislative objective of Public Health Law § 225 is, in part, to protect the public health by authorizing PPHPC, with the approval of the Commissioner, to amend the State Sanitary Code to address public health issues related to communicable disease. Pursuant to Executive Order 202, the Commissioner may directly issue emergency regulations amending the State Sanitary Code.

#### Needs and Benefits:

The 2019 Coronavirus (COVID-19) is a disease that causes mild to severe respiratory symptoms, including fever, cough, and difficulty breathing. People infected with COVID-19 have had symptoms ranging from those that are mild (like a common cold) to severe pneumonia that requires medical care in a hospital and can be fatal. According to Johns Hopkins' Coronavirus Resource Center, to date, there have been over 8 million cases and 437,604 deaths worldwide, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

COVID-19 was found to be the cause of an outbreak of illness in Wuhan, Hubei Province, China in December 2019. Since then, the situation has rapidly evolved throughout the world, with many countries, including the United States, quickly progressing from the identification of travel-associated cases to person-to-person transmission among close contacts of travel-associated cases, and finally to widespread community transmission of COVID-19.

On January 30, 2020, the World Health Organization (WHO) designated the COVID-19 outbreak as a Public Health Emergency of International Concern. On a national level, the Secretary of Health and Human Services determined on January 31, 2020 that as a result of confirmed cases of COVID-19 in the United States, a public health emergency existed and had existed since January 27, 2020, nationwide. Subsequently, on March 13, 2020, President Donald J. Trump declared a national emergency in response to COVID-19, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

New York State first identified cases on March 1, 2020 and has since become the national epicenter of the outbreak. On March 7, 2020, with widespread transmission rapidly increasing within certain areas of the state, Governor Andrew M. Cuomo issued an Executive Order declaring a state disaster emergency to aid in addressing the threat COVID-19 poses to the health and welfare of New York State residents and visitors. With over 240,000 deaths and over 10 million cases in the country, this pandemic has had a devastating effect on the United States.

As part of ongoing efforts to address this pandemic, Governor Cuomo has issued Executive Orders to implement measures aimed at limiting the spread and/or mitigating the impact of COVID-19 within the state.

These regulations update previously filed emergency regulations consistent with the Governor's Executive Order that gyms as well as restaurants, bars and other businesses serving alcohol close at 10:00 pm daily. The regulations also clarify that employees of food service establishments must wear a mask or face-covering at all times while at their place of work.

In light of this situation, these regulations are necessary to further implement social distancing measures to control the spread of communicable disease, in situations in which the Governor has declared a state disaster emergency.

#### Costs:

##### Costs to Regulated Parties:

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

##### Costs to Local and State Governments:

State and local government are authorized to enforce civil and criminal penalties related to the violation of these regulations, and there may be some cost of enforcement. Notably, pursuant to section 12-b of the PHL, any person who willfully violates these regulations may be subject to criminal penalties including imprisonment not exceeding one year, or a fine not exceeding \$10,000, or by both. However, pursuant to Executive Order 202.14, the criminal penalty for the willful violation of these regulations is currently limited to \$1,000. Further, pursuant to Executive Order 202.68, a violation of the prohibition against non-essential gatherings has a maximum civil penalty of \$15,000. Local governments are entitled to

retain any penalty assessed due to a violation of Executive order pursuant to Executive Order 202.68.

**Paperwork:**

This regulation imposes no additional paperwork.

**Local Government Mandates:**

This regulation imposes no additional local mandates beyond what has already been required pursuant to Executive Orders.

**Duplication:**

The purpose of this regulation is to codify certain provision regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. There is no duplication of federal law.

**Alternatives:**

The alternative would be to not codify provisions of Executive Orders into the Department’s regulations. However, this alternative was rejected, as the Department believes that codification will facilitate increased awareness and enforcement.

**Federal Standards:**

States and local governments have primary authority for controlling disease within their respective jurisdictions. Accordingly, there are no federal statutes or regulations that apply to disease control within NYS.

**Compliance Schedule:**

The regulations will become effective upon filing with the Department of State.

**Regulatory Flexibility Analysis**

**Effect on Small Business and Local Government:**

As part of ongoing efforts to address the COVID-19 pandemic, Governor Cuomo has issued Executive Orders to implement measures aimed at limiting the spread and/or mitigating the impact of COVID-19 within the state, that have a significant impact on small business and local government.

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

**Compliance Requirements:**

These regulations generally codify existing obligations imposed pursuant to the above referenced Executive Orders and are intended to enforce these social distancing measures to control the spread of communicable disease. These regulations also update previously filed emergency regulations consistent with the Governor’s direction that gyms as well as restaurants, bars and other businesses close at 10:00 pm daily. The regulations also clarify that employees of food service establishments must wear a mask or face-covering at all times while at their place of work.

**Professional Services:**

It is not expected that any professional services will be needed to comply with this rule.

**Compliance Costs:**

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

**Economic and Technological Feasibility:**

There are no economic or technological impediments to the rule changes.

**Minimizing Adverse Impact:**

As the proposed regulations codify existing provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders, any adverse impacts are expected to be minimal.

**Small Business and Local Government Participation:**

Due to the emergent nature of COVID-19, small business and local governments were not consulted.

**Rural Area Flexibility Analysis**

**Types and Estimated Numbers of Rural Areas:**

While this rule applies uniformly throughout the state, including rural areas, for the purposes of this Rural Area Flexibility Analysis (RAFA), “rural area” means areas of the state defined by Exec. Law § 481(7) (SAPA § 102(10)). Per Exec. Law § 481(7), rural areas are defined as “counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, and programs and such other entities or resources found therein. In counties of two hundred thousand or greater population ‘rural areas’ means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein.”

The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010:

Allegany County                      Greene County                      Schoharie County

Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County
Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County
Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties of have population of 200,000 or greater, and towns with population densities of 150 person or fewer per square mile, based upon the United States Census estimated county populations for 2010:

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

**Reporting, Recordkeeping, and Other Compliance Requirements; and Professional Services:**

These regulations generally codify existing obligations imposed pursuant to several Executive Orders and are intended to enforce these social distancing measures to control the spread of communicable disease. These regulations also update previously filed emergency regulations consistent with the Governor’s direction that gyms as well as restaurants, bars and other businesses close at 10:00 pm daily. The regulations also clarify that employees of food service establishments must wear a mask or face-covering at all times while at their place of work.

**Compliance Costs:**

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, this regulation generally imposes no additional costs to regulated parties.

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

**Economic and Technological Feasibility:**

There are no economic or technological impediments to the rule changes.

**Minimizing Adverse Impact:**

As the proposed regulations codify existing provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders, any adverse impacts are expected to be minimal.

**Rural Area Participation:**

Due to the emergent nature of COVID-19, parties representing rural areas were not consulted.

**Job Impact Statement**

The Department of Health has determined that this regulatory change is necessary to prevent further complete closure of the businesses impacted, and therefore, while there may be lost revenue for many businesses, the public health impacts of continued spread of COVID-19 are much greater.

**EMERGENCY  
RULE MAKING**

**Confirmatory COVID-19 and Influenza Testing**

**I.D. No.** HLT-50-20-00003-E

**Filing No.** 860

**Filing Date:** 2020-11-30

**Effective Date:** 2020-11-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 405.11; addition of sections 77.13, 77.14, 415.33 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 2800, 2803, 3401; Executive Order No. 202.59

**Finding of necessity for emergency rule:** Preservation of public health and public safety.

**Specific reasons underlying the finding of necessity:** During a state disaster emergency, Section 29-a of the Executive Law permits the Governor to, among other things, “temporarily suspend any statute, local law, ordinance, orders, rules, or regulations, or parts thereof, of any agency. . . if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the state disaster emergency.” To that end, on March 7, 2020 and in response to the COVID-19 pandemic, Governor Andrew M. Cuomo issued Executive Order No. 202, declaring a state disaster emergency, thereby enabling additional State action that aided in addressing the threat that COVID-19 presents to the health and welfare of New York State residents and visitors.

Additionally, New York State is entering flu season, and the similar symptoms of COVID-19 and influenza make correct diagnoses difficult without appropriate testing. Contact tracing is particularly important for cases of COVID-19 as the State continues its highly effective containment and mitigation strategies to ensure that the spread of COVID-19 remains at a level that the hospital system can accommodate. In order for New York State to more fully assess and differentiate the number of COVID-19 and influenza related cases and conduct contact tracing, testing of hospital patients and nursing home residents must be mandatory, where such patients or residents are or were suspected, but not known, to have been suffering from COVID-19 and/or influenza. Significantly, this includes testing whenever a resident or patient is suspected of having either illness. Further, in the event of an unattended death, in those instances where such testing was not already performed, the coroner, medical examiner, or funeral director must perform the test, depending on who first receives the deceased.

Given the foregoing, the Department has determined that these regulations should be issued on an emergency basis.

**Subject:** Confirmatory COVID-19 and Influenza Testing.

**Purpose:** To require confirmatory COVID-19 and influenza testing in several settings to improve case statistics and contact tracing.

**Text of emergency rule:** Section 405.11 of 10 NYCRR is amended by adding a new subdivision (h) to read as follows:

(h) *COVID-19 and Influenza Confirmatory Testing.*

(1) *Any patient who is known to have been exposed to COVID-19 or influenza or has symptoms consistent with COVID-19 or influenza shall be tested for both such diseases.*

(2) *Whenever a person expires while in the hospital, or while en route to the hospital, and in the professional judgment of the attending clinician there is a clinical suspicion that COVID-19 or influenza was a cause of death, but no such tests were performed in the 14 days before death, the hospital shall administer both a COVID-19 and influenza test within 48 hours after death, in accordance with guidance published by the Department. Such tests shall be performed using rapid testing methodologies to the extent available. The facility shall report the death to the Department immediately after and only upon receipt of both such test results through the Health Emergency Response Data System (HERDS). Notwithstanding the foregoing, no test shall be administered if the next of kin objects to such testing. Should the hospital lack the ability to perform such testing expeditiously, the hospital should request assistance from the State Department of Health.*

A new section 415.33 of 10 NYCRR is added to read as follows:

415.33 *COVID-19 and Influenza Confirmatory Testing*

(a) *Any resident who is known to have been exposed to COVID-19 or influenza or has symptoms consistent with COVID-19 or influenza shall be tested for both such diseases.*

(b) *Whenever a person expires while in a nursing home, where in the professional judgment of the nursing home clinician there is a clinical suspicion that COVID-19 or influenza was a cause of death, but no such tests were performed in the 14 days before death, the nursing home shall administer both a COVID-19 and influenza test within 48 hours after death, in accordance with guidance published by the Department. Such tests shall be performed using rapid testing methodologies to the extent available. The facility shall report the death to the Department immediately after and only upon receipt of both such test results through the Health Emergency Response Data System (HERDS). Notwithstanding the foregoing, no test shall be administered if the next of kin objects to such testing. Should the nursing home lack the ability to perform such testing expeditiously, the nursing home should request assistance from the State Department of Health.*

A new section 77.13 of 10 NYCRR is added to read as follows:

77.13 *COVID-19 and Influenza Confirmatory Testing – Funeral Directors.*

*Whenever the funeral director has been advised by an attending health care practitioner (whether the death was in hospice, an adult care facility, or any other setting where a positive diagnosis was not made) and there is a clinical suspicion that COVID-19 or influenza was a cause of death, but no such tests were performed within 14 days prior to death in a nursing home or hospital, or by the hospice agency, coroner, or medical examiner, the funeral director shall administer both a COVID-19 and influenza test within 48 hours after death, whenever the body is received within 48 hours after death, in accordance with guidance published by the Department. Such tests shall be performed using rapid testing methodologies to the extent available. The funeral director shall report the death to the Department immediately after and only upon receipt of both such test results, through a means determined by the Department. Notwithstanding the foregoing, no test shall be administered if the next of kin objects to such testing. Should the funeral director lack the ability to perform such testing expeditiously, the funeral director should request assistance from the State Department of Health.*

A new section 77.14 of 10 NYCRR is added to read as follows:

77.14 *COVID-19 and Influenza Confirmatory Testing – Coroners and Medical Examiners.*

*Whenever a coroner or medical examiner has a reasonable suspicion that COVID-19 or influenza was a cause of death, but no such tests were performed within 14 days prior to death in a nursing home or hospital, or by the hospice agency, the coroner or medical examiner shall administer both a COVID-19 and influenza test within 48 hours after death, whenever the body is received within 48 hours after death, in accordance with guidance published by the Department. Such tests shall be performed using rapid testing methodologies to the extent available. The coroner or medical examiner shall report the death to the Department immediately after and only upon receipt of both such test results, through a means determined by the Department. Notwithstanding the foregoing, no test shall be administered if the next of kin objects to such testing. Should the coroner or medical examiner lack the ability to perform such testing expeditiously, the coroner or medical examiner may request assistance from the State Department of Health.*

**This notice is intended** to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires February 27, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqa@health.ny.gov

#### **Regulatory Impact Statement**

Statutory Authority:

The authority for the promulgation of these regulations with respect to facilities subject to Article 28 of the Public Health Law (PHL) is contained in PHL sections 2800 and 2803(2). PHL Article 28 (Hospitals), section 2800, specifies: “Hospital and related services including health-related service of the highest quality, efficiently provided and properly utilized at a reasonable cost, are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the state, pursuant to section three of article seventeen of the constitution, the department of health shall have the central, comprehensive responsibility for the development and administration of the state’s policy with respect to hospital and related services, and all public and private institutions, whether state, county, municipal, incorporated or not incorporated, serving principally as facilities for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition or for the rendering of health-related service shall be subject to the provisions of this article.” PHL section 2801 defines the term “hospital” as also including residential health care facilities, which are commonly referred to as nursing homes. PHL section 2803 (2) authorizes PHHPC to adopt and amend rules and regulations, subject to the approval of the Commissioner, to implement the purposes and provisions of PHL Article 28, and to establish minimum standards governing the operation of such health care facilities. PHL 3401 authorizes the Commissioner to issue regulations pertaining to the business of funeral directing.

Executive Order No. 202, as extended, authorizes the Commissioner to directly issue emergency regulations pursuant to PHL section 2803, Article 2-B of the Executive Law authorizes the Governor in the course of any emergency to direct any person to take any action necessary to cope with the declared disaster emergency. Pursuant to Article 2-B, Executive Order 202.59 issued on August 28, 2020, as may be extended from time to time, directed the Commissioner to act to ensure accuracy in contacts tracing and testing of persons under investigation (PUI) who may have COVID-19. Executive Order 202.59 directs the Commissioner to develop, by emergency regulations, comprehensive statewide protocols for the timely testing and reporting of all COVID-19 and Influenza cases to continue to ensure, as flu season approaches, that the State has the most accurate data to evaluate the number of positive cases and to best ensure timely contact

tracing efforts are implemented in all regions. Upon the future declaration of any disaster emergency, any further authorization by the Governor pursuant to Article 2-B of the Executive Law, if it should suspend any statutes which otherwise conflict with these regulations, will establish the immediate effectiveness of these provisions, and the current actions taken establish their immediate effectiveness.

**Legislative Objectives:**

The objectives of PHL Article 28 include protecting the health of New York State residents by ensuring that they have access to safe, high-quality health services in medical facilities, while also protecting the health and safety of healthcare workers. The objective of PHL Section 3401 is to authorize the Commissioner to regulate the business of funeral directing.

**Needs and Benefits:**

During a state disaster emergency, Section 29-a of the Executive Law permits the Governor to, among other things, “temporarily suspend any statute, local law, ordinance, orders, rules, or regulations, or parts thereof, of any agency. . . if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the state disaster emergency.” To that end, on March 7, 2020 and in response to the COVID-19 pandemic, Governor Andrew M. Cuomo issued Executive Order No. 202, declaring a state disaster emergency, thereby enabling additional State action that aided in addressing the threat that COVID-19 presents to the health and welfare of New York State residents and visitors.

Additionally, New York State is entering flu season, and the similar symptoms of COVID-19 and influenza make correct diagnoses difficult without appropriate testing. Contact tracing is particularly important for cases of COVID-19 as the State continues its highly effective containment and mitigation strategies to ensure that the spread of COVID-19 remains at a level that the hospital system can accommodate. In order for New York State to more fully assess and differentiate the number of COVID-19 and influenza related cases and conduct contact tracing, testing of hospital patients and nursing home residents must be mandatory, where such patients or residents are or were suspected, but not known, to have been suffering from COVID-19 and/or influenza. Significantly, this includes testing whenever a resident or patient is suspected of having either illness. Further, in the event of an unattended death, in those instances where such testing was not already performed, the coroner, medical examiner, or funeral director must perform the test, depending on who first receives the deceased.

**Costs:**

**Costs to Regulated Parties:**

The regulation requires regulated entities to perform confirmatory COVID-19 testing on persons suspected but not known to be suffering or to have suffered from COVID-19. The cost for testing for SARS-CoV-2 using a general polymerase chain reaction (PCT) test ranges from \$100-150 per sample. However, where testing is conducted on a deceased person, rapid testing methodology may be used; the Department understands that only some hospitals and nursing homes may have this capability at this time. Newer rapid COVID testing technologies have been advertised at as low as \$5 per test. Rapid influenza tests are advertised at \$10-15 per panel.

**Costs to Local Governments:**

For those local governments that operate a general hospital or nursing home, the costs will be the same as those described above.

**Cost to State Government:**

The administration and oversight of these planning and response activities will be managed within the Department’s existing resources.

**Paperwork:**

It is not anticipated that the proposed regulatory amendments will impose any significant paperwork requirements. Although this regulation will require hospitals and nursing homes to test persons for COVID-19 and influenza, the Department does not anticipate that such additional tests will be burdensome given that these facilities are already testing patients and residents for these diseases in many instances.

**Local Government Mandates:**

Facilities operated by local governments will be subject to the same requirements as any other regulated facility, as described above.

**Duplication:**

These proposed regulatory amendments do not duplicate state or federal rules.

**Alternatives:**

The alternative would be to not promulgate the regulation, and to allow deaths to be reported as “presumed” deaths of COVID-19. However, this alternative was rejected on two grounds. First, a lack of the regulation would translate to a lack of accuracy in case statistics and delays or inadequate contact tracing, which would allow COVID-19 to spread indefinitely. Second, the regulations would encourage hospitals, nursing homes and hospices to test patients early for both COVID-19 and influenza, which will increase safety of patients and residents.

**Federal Standards:**

No Federal standards apply.

**Compliance Schedule:**

These regulatory amendments will become effective upon filing with the Department of State.

**Regulatory Flexibility Analysis**

**Effect on Small Business and Local Government:**

For those local governments or small businesses that operate a general hospital or nursing home, testing of hospital patients and nursing home residents will be mandatory, where such patients or residents are or were suspected, but not known, to have been suffering from COVID-19 and/or influenza. Significantly, this includes testing after a resident or patient is deceased, in those instances where such testing was not performed in the 14 days preceding death.

**Compliance Requirements:**

As discussed above, testing of hospital patients and nursing home residents will be mandatory, where such patients or residents are or were suspected, but not known, to have been suffering from COVID-19 and/or influenza. Significantly, this includes testing after a resident or patient is deceased, in those instances where such testing was not performed in the 14 days preceding death.

**Professional Services:**

It is not expected that any new professional services will be needed to comply with this rule. Where testing must be conducted on a deceased person, rapid testing technology may be used when available.

**Compliance Costs:**

The regulation requires regulated entities to perform confirmatory COVID-19 testing on persons suspected but not known to be suffering or to have suffered from COVID-19. The cost for testing for SARS-CoV-2 using a general polymerase chain reaction (PCT) test ranges from \$100-150 per sample. However, where testing is conducted on a deceased person, rapid testing methodology may be used; the Department understands that only some hospitals and nursing homes may have this capability at this time. Newer rapid COVID testing technologies have been advertised at as low as \$5 per test. Rapid influenza tests are advertised at \$10-15 per panel.

**Economic and Technological Feasibility:**

This proposal will not impose any economic or technological compliance burdens, other than the costs described above.

**Minimizing Adverse Impact:**

Many facilities covered under this regulation, including those owned and operated by a local government or small business, currently test patients or residents for COVID-19 and influenza. In the case of nursing homes, facilities are required to test personnel for COVID-19 pursuant to New York State Executive Order 202.30, as modified by Executive Order 202.40. Given that such facilities are actively testing persons within their facility, the Department anticipates that any adverse impacts will be minimal. Moreover, the Department will work to promptly issue guidance documents to covered parties to clarify these emergency regulatory requirements, thus helping to minimize any adverse impacts.

**Small Business and Local Government Participation:**

Due to the emergent nature of COVID-19, small business and local governments were not consulted. However, parties representing local governments and small businesses may submit comments during the notice and commenter period in the event the Department promulgates proposed regulations.

**Rural Area Flexibility Analysis**

**Types and Numbers of Rural Areas:**

Although this rule applies uniformly throughout the state, including rural areas, for the purposes of this Rural Area Flexibility Analysis (RAFA), “rural area” means areas of the state defined by Exec. Law § 481(7) (SAPA § 102(10)). Per Exec. Law § 481(7), rural areas are defined as “counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, and programs and such other entities or resources found therein. In counties of two hundred thousand or greater population ‘rural areas’ means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein.” The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010:

Allegany County	Greene County	Schoharie County
Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County

Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County
Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties have a population of 200,000 or greater and towns with population densities of 150 persons or fewer per square mile. Data is based upon the United States Census estimated county populations for 2010.

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

Reporting, recordkeeping, and other compliance requirements; and professional services:

It is not expected that any new professional services will be needed to comply with this rule. Where testing must be conducted on a deceased person, rapid testing technology may be used.

**Compliance Costs:**

The regulation requires regulated entities to perform confirmatory COVID-19 testing on persons suspected, but not known, to be suffering or to have suffered from COVID-19. The cost for testing for SARS-CoV-2 using a general polymerase chain reaction (PCT) test ranges from \$100-150 per sample. However, where testing is conducted on a deceased person, rapid testing methodology may be used; the Department understands that only some hospitals and nursing homes may have this capability at this time. Newer rapid COVID testing technologies have been advertised at as low as \$5 per test. Rapid influenza tests are advertised at \$10-15 per panel. Lastly, per SAPA § 202-bb(3)(c), it is not anticipated that there will be any significant variation in cost for different types of public and private entities in rural areas.

**Economic and Technological Feasibility:**

This proposal will not impose any economic or technological compliance burdens, other than the costs described above.

**Minimizing Adverse Impact:**

Many facilities covered under this regulation, including those owned and operated by a local government or small business, currently test patients or residents for COVID-19 and influenza. In the case of nursing homes, facilities are required to test personnel for COVID-19 pursuant to New York State Executive Order 202.30, as modified by Executive Order 202.40. Given that such facilities are actively testing persons within their facility, the Department anticipates that any adverse impacts will be minimal. Moreover, the Department will work to promptly issue guidance documents to covered parties to clarify these emergency regulatory requirements, thus helping to minimize any adverse impacts.

**Rural Area Participation:**

Due to the emergency nature of COVID-19, parties representing rural areas were not consulted in the initial draft. However, parties representing rural may submit comments during the notice and comment period in the event the Department promulgates proposed regulations.

**Job Impact Statement**

The Department of Health has determined that these regulatory changes will not have a substantial adverse impact on jobs and employment, based upon its nature and purpose.

**NOTICE OF ADOPTION**

**Reducing Annual Tuberculosis Testing of Health Care Workers**

**I.D. No.** HLT-04-20-00002-A

**Filing No.** 867

**Filing Date:** 2020-12-01

**Effective Date:** 2020-12-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of sections 404.12, 405.3, 415.26, 751.6, 763.13, 766.11, 794.3 and 1001.11 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 2803, 3612, 4010 and 4662

**Subject:** Reducing Annual Tuberculosis Testing of Health Care Workers.

**Purpose:** To replace annual tuberculosis testing of health care workers.

**Text or summary was published** in the January 29, 2020 issue of the Register, I.D. No. HLT-04-20-00002-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

**Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

**Assessment of Public Comment**

**Comment:** University of Rochester Medical Center submitted a letter supporting the rule change and suggesting an alternative wording to clarify the meaning of “annual assessments thereafter.”

**Response:** These comments in support are noted by the Department. As proposed, the regulation already states that annual TB assessments shall include education, individual risk assessment, and follow-up tests as indicated. During annual assessments, health care workers should be tested only if there are any symptoms suggestive of TB disease, or new risk for infection. The Department will provide further guidance as needed.

**Comment:** The New York State Office of Mental Health submitted a letter supporting the proposed rule change, noting the change will conform with new CDC recommendations.

**Response:** These comments in support are noted by the Department.

**Comment:** The Home Care Association of New York State submitted a letter of support, stating that the proposed rule also addresses the problem of testing product shortages and increased costs.

**Response:** These comments in support are noted by the Department.

**Comment:** The Olean General Hospital, Upper Allegheny Health System, submitted a letter of support for the rule change, asking it be expedited.

**Response:** These comments in support are noted by the Department.

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**Public Service Commission**

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**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Proposed Transfer of the Company’s Assets to the Purchasers**

**I.D. No.** PSC-50-20-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a petition filed by the River Road Water District (the Company) and Danielle Tappitake and Richard Weir (Purchasers), seeking the transfer of all the Company’s water supply assets to the Purchasers.

**Statutory authority:** Public Service Law, sections 4(1), 5(1)(f), 89-c(1), (10) and 89-h(1)

**Subject:** Proposed transfer of the Company’s assets to the Purchasers.

**Purpose:** To determine if transfer of the water system to the Purchasers is in the public interest.

**Substance of proposed rule:** The Public Service Commission is considering a joint petition, filed on November 16, 2020 by the River Road Water District (Company) and Danielle Tappitake and Richard Weir (Purchasers), seeking the transfer of all Company water supply assets to the Purchasers.

The Company serves approximately eight customers on Riverview Drive, Town of Rosendale, Ulster County, New York. The petition states that the Company, which is currently owned and operated by Karen Angel is being sold to the Purchasers due to Karen Angel’s relocation out of the Water District. The petition further states that the transfer is in the public interest because the Purchaser will be a customer will have invested interest in the system that Karen Angel will no longer have.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page at [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve or reject, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-W-0590SP1)

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## New York State Thruway Authority

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### NOTICE OF ADOPTION

#### Toll Rate Adjustments on the New York State Thruway System

**I.D. No.** THR-01-20-00003-A

**Filing No.** 874

**Filing Date:** 2020-12-01

**Effective Date:** 2021-01-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 101.2; repeal of section 101.4; and addition of new section 101.4 to Title 21 NYCRR.

**Statutory authority:** Public Authorities Law, section 354(5), (8), (15); Public Authorities Law, section 361(1); Vehicle and Traffic Law, section 1630

**Subject:** Toll rate adjustments on the New York State Thruway System.

**Purpose:** The rule provides for toll rate adjustment necessary to finance the Authority's capital plan and comply with the relevant requirements of the General Revenue Bond Resolution and the Authority's Fiscal Management guidelines.

**Substance of final rule:** The Adopted Rule provides for toll rate adjustments on the controlled system and at fixed barriers along the New York State Thruway to provide the funds necessary to finance the New York State Thruway Authority's (Authority) multi-year capital plan, to perform necessary maintenance and operations and to comply with the relevant portions of the Authority's General Revenue Bond Resolution and Fiscal Management Guidelines. These toll rate adjustments will be fully implemented by January 1, 2022.

**Final rule as compared with last published rule:** Nonsubstantial changes were made in sections 101.2 and 101.4.

**Text of rule and any required statements and analyses may be obtained from:** Pam Davis, Assistant Counsel, New York State Thruway Authority, 200 Southern Boulevard, Albany, NY 12209, (518) 436-2840, email: [tollcomments@thruway.ny.gov](mailto:tollcomments@thruway.ny.gov)

**Additional matter required by statute:** Pursuant to SEQRA, Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617 et seq., the Board of the New York State Thruway Authority determined as of December 1, 2020 that Notice of Determination of Non-Significance and issuance of a Negative Declaration in connection with the adoption of revised toll rates (a Type I Action), should be published herewith. A copy of the Negative Declaration is on file at the offices of the New York State Thruway Authority located at 200 Southern Blvd., Albany, NY 12209 and may be obtained by contacting Richard Lee, Chief Engineer, at (518) 436-2810.

Public Authorities Law Section 2804 requires that a detailed financial report be submitted to the Governor, Comptroller and Chairs and Ranking Members of the Legislative Fiscal Committees. Said report was provided as required. The report is available on the Thruway Authority's website:

<http://www.thruway.ny.gov/news/adjustment/index.html> and may also be obtained by contacting Pam Davis, Assistant Counsel, at (518) 436-2840.

**Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement documents are not necessary because the revisions to the rule text from the submission with the Notice of Proposed Rule Making and the rule text submitted with the Notice of Adoption are nonsubstantive changes to remove references and information in the appendices related to cashless tolling implementation after January 1, 2021.

**Assessment of Public Comment**

The following summarizes identifiable comments raised during the public comment process for the New York State Thruway Authority's (Authority) proposed toll adjustment, including at the virtual public hearings held on October 13, 14 and 15, 2020. Several interest groups provided comments, including trucking and busing interests; farming interests, contractors and small business as well as input from elected officials.

While many comments were received in opposition to the toll increase, some of these individuals acknowledged the need for the Authority to continue to operate and maintain a safe highway system with infrastructure in good repair and some were supportive of the conversion to cashless tolling. Some commenters expressed opposition or concern for the timing of the toll adjustment during a pandemic.

The Authority has not had a toll adjustment for more than ten years. Over the last several years, the Authority has been faced with relatively low growth in revenues and higher costs (relative to health insurance costs and winter storm events). The COVID-19 pandemic that began in March has resulted in significant impacts to the Authority's financial condition. Most significantly, there have been substantial declines in Thruway passenger and commercial traffic directly impacting toll revenues. These impacts persist and are projected to continue through the remainder of 2020 with projected declines in the years ahead. In response to the unprecedented decline in revenues, the Authority implemented operating and capital project expense reductions and executed short-term financing agreements to provide further support of potential cashflow requirements. The updated financials that reflect both the reduced revenues and mitigating actions taken by the Authority show that the proposed toll actions are still necessary and are a critical component in providing funding necessary for the Authority's 2019-2024 Capital Program which will provide approximately \$2.78 billion for Authority capital projects. Future planned investments in the Capital Plan will preserve overall highway and bridge conditions in the "good" category, accomplish full completion of the Governor Mario M. Cuomo Bridge Project and includes the system-wide implementation of cashless tolling by the end of 2020.

Some individuals expressed concern with obtaining an E-ZPass and/or privacy issues related to their perception that a vehicle may be "tracked" by the Authority.

The New York State Public Authorities Law authorizes the Authority to use its toll collection system only for the collection of tolls. The Thruway Authority is strongly committed to personal privacy and its Board of Directors adopted an E-ZPass Account Information Policy that restricts how such information may be used. The Authority may use the information for traffic and facility management purposes provided an individual person or vehicle is not identified. The information is not used to monitor or "track" a particular vehicle and the Authority is prohibited from selling account holder data and does not sell such data.

The contracting industry was generally in support of the toll adjustment and highlighted the need to address deteriorating infrastructure that will lead to costly bridge rehabilitation and replacements. Some comments received even encouraged the Authority to undertake a larger toll increase to address the capital program needs. The Authority believes, based on its own analysis and that of its independent consultant, Stantec Inc., that the proposed toll adjustment is sufficient to meet the current operational and capital needs of the Authority.

Other commenters opposed to the toll increase questioned why the Authority was still in existence when the tolls were originally supposed to be temporary. In 1989 (Chapter 634), the Thruway Authority Transition Advisory Council was created and charged with the responsibility to "make recommendations concerning the future of the Thruway and the Thruway Authority after the scheduled retirement of the Authority's bondable debt in the year 1996..." The Advisory Council, which by law was required to have membership from a diverse group of interests (including business, trucking and other highway users, state and local government, labor and highway planners) issued its report on September 30, 1991. The Advisory Council stated that while the Thruway could be made toll free, it could not be made free. Fundamentally, the State's choice in financing the Thruway after retirement of the bonds used to finance the construction of the system was between tolls and taxes. The Advisory Council concluded

that tolls were the preferable choice because it was more appropriate for those who use the Thruway to pay for its maintenance and upkeep rather than the taxpayers of New York generally. Therefore, the Advisory Council recommended to the Legislature and the Governor that the tolls be maintained and that the Authority with its bonding ability, be retained to meet the highway transportation needs along the Thruway corridor. In order to eliminate the tolls, the Legislature would have had to enact legislation to remove the Authority's power to impose tolls and to issue debt secured by tolls once the original bonds were retired. Instead, in 1992, the Governor and the State Legislature enacted legislation to further expand the responsibilities of the Authority to include the operation and maintenance of the canal system (transferred to the New York Power Authority in 2017) and authorized additional indebtedness secured by toll revenues to assist with the financing and new responsibility.

Some of the comments received requested discounts for buses or certain agricultural vehicles or opposed the disparity between the toll rates for passenger vehicles and commercial vehicles.

The Authority offers a 10 percent discount from the E-ZPass rate for all qualified omnibuses and is in addition to the Authority's commercial volume discount. The commercial volume discount program offers discounts between 10 and 20 percent based on the volume of monthly toll charges. The increase for commercial vehicles on the GMMCB reflects the greater wear and tear that those types of vehicles impose on Thruway infrastructure. The proposed commercial rates will increase proportionately to passenger rates with a proposed increase of 30 and 31 percent for commercial vehicles with five or more axles. Even with these increases, the commercial vehicle tolls will be significantly lower than those on the other major New York metropolitan area crossings that are comparable to the GMMCB.

Others opposed the higher toll rate and \$2 surcharge for Tolls by Mail customers and/or opposed a higher rate for non-NY E-ZPass accounts. The costs associated with processing transactions through the Tolls by Mail program are higher than the costs for E-ZPass customers and the toll rate differential is to incentivize more customers to sign up for an E-ZPass account. There is an administrative surcharge per billing statement to support the administrative costs associated with processing transactions through the Tolls by Mail program. All cashless toll facilities throughout the country charge Tolls by Mail premiums or a combination of premiums and administrative per-bill surcharges to offset additional printing and mailing costs. Tolling agencies across the United States offer reduced rates for customers who have an E-ZPass issued by their state. It is not a requirement that an individual be a resident of New York to open a NY E-ZPass account and receive the benefit of the NY E-ZPass rate.

Some comments advocated for the continuation of the Green Pass Program with the newly created Westchester/Rockland County resident discount program. Westchester/Rockland residents can have both the resident discount and the Green Pass discount associated with their tag, but only the lowest fare will be charged. The proposed toll adjustment maintains several discount options and specialized plans that the Authority offers for both passenger and commercial vehicles. These discounts and plans are primarily geared towards frequent users of the system.

The Authority received many comments in support of the toll adjustment and in support of cashless tolling.

The additional revenues generated by the proposed toll modification is a critical component of the Authority's multi-faceted program to provide funding necessary to finance the Authority's Capital Program, maintain the Thruway System's highways and bridges in a state of good repair, fulfill its critical role in supporting the State's economy, and comply with the relevant portions of the Authority's General Revenue Bond Resolution and Fiscal Management Guidelines. Thruway tolls support all Thruway facilities.

In conclusion, the Authority undertook a robust public outreach process and received many comments both in support and in opposition to its proposed toll adjustment. However, there were no suggestions within the Authority's control that raised suitable alternatives to the toll adjustment.

## Triborough Bridge and Tunnel Authority

### PROPOSED RULE MAKING HEARING(S) SCHEDULED

#### A Proposal to Establish a New Crossing Charge Schedule for Use of Bridges and Tunnels Operated by TBTA

**I.D. No.** TBA-50-20-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Repeal of Part 1021.1; and addition of new Part 1021.1 to Title 21 NYCRR.

**Statutory authority:** Public Authorities Law, section 553(5)

**Subject:** A proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA.

**Purpose:** A proposal to raise additional revenue.

**Public hearing(s) will be held at:** 5:30 p.m., Dec. 1, 2020 at <https://new.mta.info/2020hearings>; 10:00 a.m., Dec. 3, 2020 at <https://new.mta.info/2020hearings>; 5:30 p.m., Dec. 7, 2020 at <https://new.mta.info/2020hearings>; 5:30 p.m., Dec. 9, 2020 at <https://new.mta.info/2020hearings>; 5:30 p.m., Dec. 14, 2020 at <https://new.mta.info/2020hearings>; 10:00 a.m., Dec. 21, 2020 at <https://new.mta.info/2020hearings>

Because of safety concerns related to the global COVID-19 pandemic, public hearings have been scheduled as virtual public meetings.

**Interpreter Service:** Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

**Accessibility:** All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

**Text of proposed rule:** Triborough Bridge and Tunnel Authority Crossing Charges

A. For E-ZPass New York Customer Service Center (NYCSC) Customers When Using Their Properly Mounted NYCSC E-ZPass Tag

Classification	Verrazano-Narrows Bridge (a)	Robert F. Kennedy, Bronx-Whitestone, and Throgs Neck Bridges and Queens Midtown and Hugh L. Carey Tunnels	Henry Hudson Bridge	Marine Parkway-Gil Hodges Memorial, and Cross Bay Veterans Memorial Bridges
	Crossing Charges			
1 Two-axle vehicles, including: passenger vehicles, station wagons, self-propelled mobile homes, ambulances, hearses, vehicles with seating capacity of not more than 15 adult persons (including the driver) and trucks with maximum gross weight (MGW) of 7,000 lbs. and under	\$6.70	\$6.70	\$3.07	\$2.51
Registered Staten Island Residents using an eligible vehicle taking 3 or more trips per month		\$3.77		
Registered Staten Island Residents using an eligible vehicle taking less than 3 trips per month		\$3.97		
Registered Staten Island Residents using an eligible vehicle with three or more occupants (HOV)		\$1.86		

Registered Rockaway Residents using an eligible vehicle				\$1.63
Each additional axle costs	\$4.38	\$4.38	\$3.28	\$3.28
2 All vehicles with MGW greater than 7,000 lbs. and buses (other than franchise buses using E-ZPass and motor homes)				
Two-axle vehicles	\$12.10	\$12.10		\$6.05
Three-axle vehicles	\$19.84	\$19.84		\$9.92
Four-axle vehicles	\$25.36	\$25.36		\$12.68
Five-axle vehicles	\$33.06	\$33.06		\$16.53
Six-axle vehicles	\$38.58	\$38.58		\$19.29
Seven-axle vehicles	\$46.26	\$46.26		\$23.13
Each additional axle	\$7.72	\$7.72		\$3.86
3 Two-axle franchise buses	\$4.85	\$4.85		\$2.42
4 Three-axle franchise buses	\$5.76	\$5.76		\$3.03
5 Motorcycles	\$2.91	\$2.91	\$2.09	\$2.09
Each additional axle	\$1.74	\$1.74	\$1.74	\$1.74

Charge per crossing for E-Tokens for registered Rockaway Peninsula/Broad Channel Residents using an eligible vehicle				\$2.24
Each additional axle costs	\$4.38	\$4.38	\$3.28	\$3.28
2 All vehicles with MGW greater than 7,000 lbs. and buses (other than franchise buses using E-ZPass and motor homes)				
Two-axle vehicles	\$16.00	\$16.00		\$8.00
Three-axle vehicles	\$26.00	\$26.00		\$13.00
Four-axle vehicles	\$33.00	\$33.00		\$16.50
Five-axle vehicles	\$43.00	\$43.00		\$21.50
Six-axle vehicles	\$50.00	\$50.00		\$25.00
Seven-axle vehicles	\$62.00	\$62.00		\$31.00
Each additional axle	\$9.00	\$9.00		\$4.50
3 Two-axle franchise buses	\$6.75	\$6.75		\$3.25
4 Three-axle franchise buses	\$7.75	\$7.75		\$4.00
5 Motorcycles	\$3.25	\$3.25	\$3.25	\$3.25
Each additional axle	\$1.50	\$1.50	\$1.50	\$1.50

The Authority reserves the right to determine whether any vehicle is of unusual or unconventional design, weight or construction and therefore not within any of the listed categories. The Authority also reserves the right to determine the crossing charge for any such vehicle of unusual or unconventional design, weight or construction.

Bicycles are not permitted over Bronx-Whitestone, Throgs Neck, and Verrazano-Narrows Bridges, or through the tunnels. Such vehicles may cross the Robert F. Kennedy, Henry Hudson, Marine Parkway-Gil Hodges Memorial and Cross Bay Veterans Memorial Bridges without payment of crossing charge, but must be walked across the pedestrian paths of such bridges.

Only vehicles authorized to use parkways are authorized to use the Henry Hudson Bridge. An unauthorized vehicle using the Henry Hudson Bridge must pay the Marine Parkway-Gil Hodges Memorial Bridge rate.

E-ZPass crossing charges apply to New York E-ZPass Customer Service Center customers only and are available subject to terms, conditions and agreements established by the Authority.

There are no residential restrictions with regard to enrollment as a TBTA Customer in the New York Customer Service Center.

**B. For Fare Media Other Than E-ZPass Charges for E-ZPass New York Customer Service Center Customers**

Classification	Verrazano-Narrows Bridge (a)	Robert F. Kennedy, Bronx-Whitestone, and Throgs Neck Bridges and Queens Midtown and Hugh L. Carey Tunnels	Henry Hudson Bridge	Marine Parkway-Gil Hodges Memorial, and Cross Bay Veterans Memorial Bridges
1 Two-axle vehicles, including: passenger vehicles, station wagons, self-propelled mobile homes, ambulances, hearses, vehicles with seating capacity of not more than 15 adult persons (including the driver) and trucks with maximum gross weight (MGW) of 7,000 lbs. and under	\$10.40	\$10.40	\$7.66	\$5.20

The following discounted charges are available for eligible class 1 vehicles:

Charge per crossing for E-Tokens				\$3.47
Charge per crossing for E-Tokens for registered Staten Island Residents using an eligible vehicle	\$5.36			

The Authority reserves the right to determine whether any vehicle is of unusual or unconventional design, weight or construction and therefore not within any of the listed categories. The Authority also reserves the right to determine the crossing charge for any such vehicle of unusual or unconventional design, weight or construction.

Bicycles are not permitted over Bronx-Whitestone, Throgs Neck, and Verrazano-Narrows Bridges, or through the tunnels. Such vehicles may cross the Robert F. Kennedy, Henry Hudson, Marine Parkway-Gil Hodges Memorial and Cross Bay Veterans Memorial Bridges without payment of crossing charge, but must be walked across the pedestrian paths of such bridges.

Only vehicles authorized to use parkways are authorized to use the Henry Hudson Bridge. An unauthorized vehicle using the Henry Hudson Bridge must pay the Marine Parkway-Gil Hodges Memorial Bridge rate.

**C. For E-ZPass New York Customer Service Center (NYCSC) Customers When Not Using Their Properly Mounted NYCSC E-Z Pass Tag**

Classification	Verrazano-Narrows Bridge	Robert F. Kennedy, Bronx-Whitestone, and Throgs Neck Bridges and Queens Midtown and Hugh L. Carey Tunnels	Henry Hudson Bridge	Marine Parkway-Gil Hodges Memorial, and Cross Bay Veterans Memorial Bridges
1 Two-axle vehicles, including: passenger vehicles, station wagons, self-propelled mobile homes, ambulances, hearses, vehicles with seating capacity of not more than 15 adult persons (including the driver) and trucks with maximum gross weight (MGW) of 7,000 lbs. and under	\$8.55	\$8.55	\$5.37	\$3.85
Registered Staten Island Residents using an eligible vehicle taking 3 or more trips per month				
Registered Staten Island Residents using an eligible vehicle taking less than 3 trips per month				
Registered Staten Island Residents using an eligible vehicle with three or more occupants (HOV)				
Registered Rockaway Residents using an eligible vehicle				

Each additional axle costs	\$4.38	\$4.38	\$3.28	\$3.28
2 All vehicles with MGW greater than 7,000 lbs. and buses (other than franchise buses using E-ZPass and motor homes)				
Two-axle vehicles	\$16.45	\$16.45		\$8.23
Three-axle vehicles	\$27.05	\$27.05		\$13.53
Four-axle vehicles	\$34.09	\$34.09		\$17.05
Five-axle vehicles	\$44.67	\$44.67		\$22.34
Six-axle vehicles	\$51.72	\$51.72		\$25.86
Seven-axle vehicles	\$63.50	\$63.50		\$31.75
Each additional axle	\$9.98	\$9.98		\$4.99
3 Two-axle franchise buses				
	\$7.49	\$7.49		\$3.68
4 Three-axle franchise buses				
	\$8.49	\$8.49		\$4.39
5 Motorcycles				
	\$3.65	\$3.65	\$3.24	\$3.24
Each additional axle	\$1.74	\$1.74	\$1.74	\$1.74

The Authority reserves the right to determine whether any vehicle is of unusual or unconventional design, weight or construction and therefore not within any of the listed categories. The Authority also reserves the right to determine the crossing charge for any such vehicle of unusual or unconventional design, weight or construction.

Bicycles are not permitted over Bronx-Whitestone, Throgs Neck, and Verrazano-Narrows Bridges, or through the tunnels. Such vehicles may cross the Robert F. Kennedy, Henry Hudson, Marine Parkway-Gil Hodges Memorial and Cross Bay Veterans Memorial Bridges without payment of crossing charge, but must be walked across the pedestrian paths of such bridges.

Only vehicles authorized to use parkways are authorized to use the Henry Hudson Bridge. An unauthorized vehicle using the Henry Hudson Bridge must pay the Marine Parkway-Gil Hodges Memorial Bridge rate.

**Text of proposed rule and any required statements and analyses may be obtained from:** Julia R. Christ, General Counsel and Corporate Secretary, Triborough Bridge and Tunnel Authority, 2 Broadway, 24th Floor, New York, New York 10004, (646) 841-3042, email: jchrist@mtabt.org

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

**HEARINGS SCHEDULED  
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>Lake George Park Commission</b>		
LGP-43-20-00005-P .....	Stream Corridor Protection Regulations for the Lake George Park	Fort William Henry, 48 Canada St., Lake George, NY—January 12, 2021, 4:00 p.m.
<b>Public Service Commission</b>		
PSC-42-20-00006-P .....	Proposed Major Rate Increase in National Grid’s Delivery Revenues of Approximately \$41.8 Million (or 9.8% in Total Revenues)	Department of Public Service, 19th Fl. Board Rm., 3 Empire State Plaza, Albany, NY—January 6, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-G-0381
PSC-42-20-00009-P .....	Proposed Major Rate Increase in National Grid’s Delivery Revenues of Approximately \$100.4 Million (or 3.2% in Total Revenues)	Department of Public Service, 19th Fl. Board Rm., 3 Empire State Plaza, Albany, NY—January 6, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-E-0380
PSC-45-20-00004-P .....	Major Gas Rate Filing	Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-E-0429
PSC-45-20-00005-P .....	Major Electric Rate Filing	Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-E-0428
PSC-46-20-00005-P .....	Recommendations of the DPS Staff Report to Improve Hudson Valley Water’s Service	The Public Hearing will be held online and by telephone. Details for access will be published via Notice at the DPS website (www.dps.ny.gov) under Case 20-W-0477—January 19, 2021, 4:00 p.m.* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-W-0477
<b>Triborough Bridge and Tunnel Authority</b>		
TBA-15-20-00005-P .....	A Proposal to Establish a New Crossing Charge Schedule for Use of Bridges and Tunnels Operated by TBTA	<a href="https://new.mta.info/2020hearings">https://new.mta.info/2020hearings</a> —December 1, 2020, 5:30 p.m.

<https://new.mta.info/2020hearings>—December 3, 2020, 10:00 a.m.

<https://new.mta.info/2020hearings>—December 7, 2020, 5:30 p.m.

<https://new.mta.info/2020hearings>—December 9, 2020, 5:30 p.m.

<https://new.mta.info/2020hearings>—December 14, 2020, 5:30 p.m.

<https://new.mta.info/2020hearings>—December 21, 2020, 10:00 p.m.

Because of safety concerns related to the global COVID-19 pandemic, public hearings have been scheduled as virtual public meetings

**ACTION PENDING INDEX**

The action pending index is a list of all proposed rules which are currently being considered for adoption. A proposed rule is added to the index when the notice of proposed rule making is first published in the *Register*. A proposed rule is removed from the index when any of the following occur: (1) the proposal is adopted as a permanent rule; (2) the proposal is rejected and withdrawn from consideration; or (3) the proposal's notice expires.

Most notices expire in approximately 12 months if the agency does not adopt or reject the proposal within that time. The expiration date is printed in the second column of the action pending index. Some notices, however, never expire. Those notices are identified by the word "exempt" in the second column. Actions pending for one year or more are preceded by an asterisk(\*).

For additional information concerning any of the proposals

listed in the action pending index, use the identification number to locate the text of the original notice of proposed rule making. The identification number contains a code which identifies the agency, the issue of the *Register* in which the notice was printed, the year in which the notice was printed and the notice's serial number. The following diagram shows how to read identification number codes.

Agency code	Issue number	Year published	Serial number	Action Code
<b>AAM</b>	<b>01</b>	<b>12</b>	<b>00001</b>	<b>P</b>

Action codes: P — proposed rule making; EP — emergency and proposed rule making (expiration date refers to proposed rule); RP — revised rule making

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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**AGRICULTURE AND MARKETS, DEPARTMENT OF**

AAM-12-20-00006-P	..... 03/25/21	Calibrating and testing of certain weights and measures standards and devices.	To allow the Dept. to increase the fees it charges in calibrating and testing certain weights & measures standards and devices.
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**ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF**

ASA-19-20-00001-RP	..... 05/13/21	General service standards applicable to outpatient substance use disorder programs	To set-forth the minimum regulatory requirements for certified outpatient substance use disorder treatment programs.
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ASA-28-20-00013-P	..... 07/15/21	Patient Rights	To set-forth the minimum regulatory requirements for patient rights in OASAS certified, funded or otherwise authorized programs
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ASA-28-20-00014-P	..... 07/15/21	Specialized Services	To replace the term "chemical dependence" with "addiction"
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ASA-28-20-00016-P	..... 07/15/21	Designated Services	To set-forth the minimum regulatory requirements for certified programs to seek an Office designation
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**AUDIT AND CONTROL, DEPARTMENT OF**

AAC-43-20-00004-P	..... 10/28/21	Budgets and Financial Plan Format of Public Authorities	Conform regulations related to the submission of annual budgets and financial plans to the Public Authorities Reform Act of 2009
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**CHILDREN AND FAMILY SERVICES, OFFICE OF**

*CFS-46-19-00002-RP	..... 03/03/21	Behavioral health services, elimination of room isolation and authority to operate de-escalation rooms	To implement standards for behavioral health services and the operation of de-escalation rooms and to eliminate room isolation
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CFS-04-20-00009-P	..... 01/28/21	Host Family Homes	The proposed regulations would establish standards for the approval and administration of host family homes.
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CHILDREN AND FAMILY SERVICES, OFFICE OF</b>			
CFS-36-20-00001-EP	09/09/21	Define “non-school hours” and “those periods of the year in which school is not in session”	To include virtual and/or remote learning as in school hours
CFS-36-20-00003-P	09/09/21	Requires training on adverse childhood experiences (ACEs), focused on understanding trauma and on nurturing resiliency	Requires training on adverse childhood experiences (ACEs), focused on understanding trauma and on nurturing resiliency
CFS-46-20-00001-P	11/18/21	Amendment to community guardian program regarding who can complete the annual evaluation or examination	Amendment to community guardian program regarding who can complete the annual evaluation or examination
CFS-49-20-00006-EP	12/09/21	Maintenance reimbursement for residential CSE programs when a student has been absent from the program for more than 15 days.	Remove an existing regulatory barrier that precludes maintenance reimbursement for residential CSE programs.
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-03-20-00003-P	02/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-03-20-00004-P	02/01/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-03-20-00005-P	02/01/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-03-20-00006-P	02/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-03-20-00007-P	02/01/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-06-20-00001-P	02/11/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-06-20-00002-P	02/11/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-06-20-00003-P	02/11/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00004-P	02/11/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00005-P	02/11/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-06-20-00006-P	02/11/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-06-20-00007-P	02/11/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class and to delete positions from the non-competitive class
CVS-06-20-00008-P	02/11/21	Jurisdictional Classification	To delete a subheading and positions from and to classify a subheading and positions in the exempt and non-competitive classes
CVS-13-20-00002-P	04/01/21	Supplemental military leave benefits	To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2020

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-13-20-00009-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00010-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00011-P	04/01/21	Jurisdictional Classification	To delete positions from the exempt class
CVS-13-20-00012-P	04/01/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-13-20-00013-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00014-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00015-P	04/01/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-13-20-00016-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00017-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00018-P	04/01/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-20-00019-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00020-P	04/01/21	Jurisdictional Classification	To delete positions in the non-competitive class
CVS-13-20-00021-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00022-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00023-P	04/01/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-13-20-00024-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes.
CVS-13-20-00025-P	04/01/21	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class
CVS-18-20-00004-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00005-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-20-00006-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00007-P	05/06/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-18-20-00008-P	05/06/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-18-20-00009-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class

## Action Pending Index

NYS Register/December 16, 2020

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-18-20-00010-P	05/06/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-24-20-00002-P	06/17/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-24-20-00003-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00004-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00005-P	06/17/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-20-00006-P	06/17/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-24-20-00007-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00008-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00009-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00010-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-20-00004-P	07/15/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-28-20-00005-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00006-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00007-P	07/15/21	Jurisdictional Classification	To delete a position from the exempt class
CVS-28-20-00008-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00009-P	07/15/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-20-00010-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-28-20-00011-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00012-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-20-00003-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00004-P	08/12/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes
CVS-32-20-00005-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-32-20-00006-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-41-20-00002-P	10/14/21	Jurisdictional Classification	To delete positions from and to classify a subheading and positions in the exempt class
CVS-41-20-00003-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-20-00004-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-20-00005-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-41-20-00006-P	10/14/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-41-20-00007-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-49-20-00002-P	12/09/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-20-00003-P	12/09/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class.
CVS-49-20-00004-P	12/09/21	Jurisdictional Classification	To classify positions in the exempt class.
CVS-49-20-00005-P	12/09/21	Jurisdictional Classification	To classify a position in the non-competitive class
<b>CORRECTION, STATE COMMISSION OF</b>			
*CMC-35-19-00002-P	02/01/21	Disciplinary and administrative segregation of inmates in special housing.	Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-34-20-00001-P	08/26/21	Family Reunion Program	To clarify for logic and consistency, and make additional changes to the current Family Reunion Program
<b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>			
*CJS-30-19-00010-ERP	02/01/21	Use of Force	Set forth use of force reporting and recordkeeping procedures
CJS-19-20-00010-P	05/13/21	Part 364 - Conditional release conditions.	Conform to the recent changes made by the Legislature by removing the term "gravity knife".
CJS-44-20-00002-P	11/04/21	Intake for Article 7 (PINS)	Update existing Rule to reflect services which will be performed by Probation departments

## Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>			
EDV-41-20-00014-P	10/14/21	The Excelsior Linked Deposit Program	Administration of the Excelsior Linked Deposit Program
EDV-48-20-00001-P	12/02/21	Employee Training Incentive Program	To update the administrative processes for the ETIP program
<b>EDUCATION DEPARTMENT</b>			
*EDU-17-19-00008-P	02/01/21	To require study in language acquisition and literacy development of English language learners in certain teacher preparation	To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population
*EDU-27-19-00010-P	02/01/21	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
EDU-11-20-00013-RP	03/23/21	Special Education Impartial Hearing Officers and the Special Education Due Process System Procedures	To address volume of special education due process complaints in the New York City due process system
EDU-16-20-00002-ERP	04/22/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-20-20-00008-ERP	05/20/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-25-20-00008-ERP	06/24/21	Eligibility for Participation of Students With Section 504 or ADA Plans in Interschool Competition and Inclusive Athletics	To clarify the eligibility requirements for participation of students with section 504 or ADA plans in interschool competition
EDU-30-20-00002-P	07/29/21	Creating a transitional J Certificate for Military Spouses	To create a Transitional J certificate for spouses of individuals on full-time active duty with the Armed Forces
EDU-30-20-00003-P	07/29/21	Creating Safety Nets for the Arts Content Specialty Tests (CSTs)	To create a safety net for the Arts Content Specialty Tests (CSTs)
EDU-30-20-00004-ERP	07/29/21	Addressing the COVID-19 crisis and planning for the reopening of schools	To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools
EDU-30-20-00005-P	07/29/21	Creating a Safety Net for the School Building Leader Assessment	To create a safety net for the School Building Leader Assessment
EDU-39-20-00010-P	09/30/21	Financial Transparency Requirement Reporting Deadlines	To permit the Department to establish the financial transparency reporting requirement deadline administratively
EDU-39-20-00011-P	09/30/21	Continuing Education Requirements for Psychologists	To implement Chapter 436 of the 2018 requiring continuing education for psychologists
EDU-39-20-00012-EP	09/30/21	Addressing the COVID-19 Crisis and the Reopening of Schools	To address the COVID-19 crisis and to prepare for the reopening of schools
EDU-39-20-00013-P	09/30/21	Authorize NY higher education institutions to participate in SARA & the approval of out-of-state institutions to provide distance education	To align the Commissioner's regulations with national SARA policy and federal regulations

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
EDU-48-20-00003-P	12/02/21	Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program	Update and clarify certain terminology related to the use of technology in libraries and to reflect new technologies.
<b>ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, NEW YORK STATE</b>			
ERD-19-20-00012-P	05/13/21	CO2 Allowance Auction Program	Continued administration and implementation of the CO2 allowance auctions and programs under Part 507
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
*ENV-36-19-00003-P	02/01/21	Stationary Combustion Installations	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and lower emission standards.
*ENV-37-19-00003-RP	03/03/21	Clarifying determination of jurisdiction under the Endangered and Threatened Fish and Wildlife regulations	To improve the review of projects by removing some project types that are known not to cause harm from the review stream
ENV-05-20-00002-P	04/10/21	Sulfur-in Fuel Limitations	Limit sulfur in liquid and solid fuels throughout NYS
ENV-06-20-00018-P	04/16/21	The repeal and replacement of 6 NYCRR Part 230 Gasoline Dispensing Sites and Transport Vehicles	To further reduce harmful volatile organic compounds (VOCs) emitted into the atmosphere.
ENV-06-20-00019-P	04/16/21	Consumer Products	Reduce Volatile Organic Compound emissions from Consumer Products - those products used in the average household.
ENV-06-20-00020-P	04/16/21	New Source Review requirements for proposed new major facilities and major modifications to existing facilities.	To conform to federal NSR rule requirements and related court rulings, correct typographical errors, and clarify rule language.
ENV-12-20-00001-EP	03/25/21	Regulations governing commercial fishing of Tautog (blackfish).	To revise regulations concerning the commercial harvest of Tautog in New York State.
ENV-17-20-00005-P	04/29/21	The above referenced Parts make up the Department's air pollution control permitting program.	The purpose of this rulemaking is to improve the clarity and consistency of the Department's air pollution permitting program
ENV-33-20-00005-P	08/19/21	Repeal of Section 485.1	To remove outdated and redundant references in the Department's regulations
ENV-33-20-00007-P	10/20/21	Emissions limits for 2030 and 2050, as a percentage of 1990 levels, required by Climate Leadership and Community Protection Act	To limit greenhouse gas emissions that endanger public health and the environment
ENV-36-20-00002-P	09/09/21	Deer Hunting Seasons	Establish a bow and muzzleloader deer hunting season in the Southern Zone during the Christmas and New Year holiday week
ENV-42-20-00003-EP	10/21/21	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health
ENV-47-20-00004-P	11/25/21	Inland trout stream fishing regulations	To revise and standardize inland trout stream fishing regulations

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
ENV-47-20-00005-P	11/25/21	Sportfishing (freshwater) and associated activities	To revise and simplify sportfishing regulations and associated activities
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-33-19-00004-RP	02/01/21	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To set forth minimum standards for the content of health insurance identification cards.
*DFS-43-19-00017-P	02/01/21	Independent Dispute Resolution for Emergency Services and Surprise Bills	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided
DFS-36-20-00007-P	09/09/21	Superintendent's Regulations: Information Subject to Confidential Treatment	Provide rules concerning publication or disclosure of information subject to confidential treatment
DFS-39-20-00025-P	09/30/21	Financial Statement Filings and Accounting Practices and Procedures	To make technical corrections and clarifications, add new subdivisions S. 83.4(t) and (u), and update incorporated references
DFS-45-20-00007-P	11/10/21	Office of Pharmacy Benefits	To establish the Office of Pharmacy Benefits and rules for the Drug Accountability Board
DFS-49-20-00011-P	12/09/21	Credit for Reinsurance	To conform to covered agreements entered into between the US and EU and the US and UK, and implement NAIC models.
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-34-20-00009-P	08/26/21	Qualification time in harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-40-20-00001-P	10/07/21	To expressly permit veterinary technicians to practice in horse racing	To preserve the safety and integrity of pari-mutuel racing while generating reasonable revenue for the support of government
SGC-44-20-00012-P	11/04/21	Allowing licensed lottery courier services to purchase and deliver lottery tickets to customers	To facilitate the sale of lottery tickets to generate additional revenue for education
SGC-50-20-00006-P	12/16/21	Participation in the management and operation of charitable games of chance	To maintain integrity and accountability in the management and operation of games of chance
SGC-50-20-00007-P	12/16/21	Contactless payment methods for chances in charitable gaming.	To promote public health and support of organizations authorized to operate games of chance.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
*HLT-14-94-00006-P	..... exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
*HLT-36-19-00006-P	..... 02/01/21	Limits on Executive Compensation	Removes “Soft Cap” prohibition on covered executive salaries.
*HLT-40-19-00004-P	..... 02/01/21	Drug Take Back	To implement the State’s drug take back program to provide for the safe disposal of drugs
*HLT-46-19-00003-P	..... 02/01/21	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age
*HLT-47-19-00008-P	..... 02/01/21	Hospital Medical Staff - Limited Permit Holders	To repeal extra years of training required for limited permit holders to work in New York State hospitals.
HLT-51-19-00001-P	..... 02/01/21	Women, Infants and Children (WIC) Program	To support implementation of eWIC; clarify rules for violations, penalties & hearings & conform vendor authorization criteria.
HLT-53-19-00001-P	..... 01/02/21	Prohibition on the Sale of Electronic Liquids with Characterizing Flavors	To prohibit the sale of electronic liquids with characterizing flavors
HLT-53-19-00012-P	..... 02/01/21	Consumer Directed Personal Assistance Program Reimbursement	To establish a program to pay home care services & establish a methodology framework for the payment of FI administrative costs.
HLT-04-20-00003-P	..... 02/01/21	Applied Behavior Analysis	To include Applied Behavior Analysis in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.
HLT-04-20-00011-P	..... 02/01/21	Nursing Home Case Mix Rationalization	To authorize the Department of Health to change the case mix acuity process for all nursing homes.
HLT-11-20-00003-P	..... 03/18/21	Adult Day Health Care (ADHC)	To allow for reimbursement of real property leases in certain situations when used for operations of an ADHC program
HLT-27-20-00006-P	..... 07/08/21	Medicaid Managed Care State Fair Hearings and External Appeals Processes and Standards	To address & clarify rules of procedure & presentation of evidence for Medicaid managed care fair hearings & external appeals
HLT-28-20-00019-P	..... 07/15/21	Personal Care Services (PCS) and Consumer Directed Personal Assistance Program (CDPAP)	To implement a revised assessment process and eligibility criteria for PCS and CDPAP
HLT-31-20-00012-EP	..... exempt	Hospital Non-comparable Ambulance Acute Rate Add-on	Prevents duplicate claiming by Article 28 hospitals for the ambulance add-on regarding participation in the program
HLT-38-20-00006-P	..... 09/23/21	Medicaid Transportation Program	Medicaid payment standards for emergency ambulance providers participating in an Emergency Triage, Treat & Transport (ET3) model
HLT-38-20-00008-EP	..... 09/23/21	Revise Requirements for Collection of Blood Components	To facilitate the availability of human blood components while maintaining safety

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-39-20-00003-EP	09/30/21	Reduce Hospital Capital Rate Add-on and Reduce Hospital Capital Reconciliation Payment	To include a 5 percent reduction to the budgeted and actual capital add-on in Article 28 hospital inpatient reimbursement rates
HLT-40-20-00002-EP	10/07/21	Hospital Indigent Care Pool Payment Methodology	To develop an indigent care distribution methodology for calendar years through 2022
HLT-45-20-00002-P	11/10/21	Cannabinoid Hemp	To create a licensing framework for cannabinoid hemp processors and cannabinoid hemp retailers
<b>HOUSING AND COMMUNITY RENEWAL, DIVISION OF</b>			
*HCR-21-19-00019-P	02/01/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits.
HCR-26-20-00012-EP	09/09/21	Schedule of Reasonable Costs for Major Capital Improvements in rent regulated housing accommodations	Provide a schedule of reasonable costs for Major Capital Improvements in rent regulated housing accommodations
<b>HOUSING FINANCE AGENCY</b>			
*HFA-21-19-00020-P	02/01/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
<b>JOINT COMMISSION ON PUBLIC ETHICS, NEW YORK STATE</b>			
JPE-28-20-00031-RP	07/15/21	Source of funding reporting	Clarifying amendments to Source of Funding reporting
JPE-28-20-00032-RP	07/15/21	Amendments to the lobbying regulations	To clarify the lobbying regulations that implement the provisions of the Lobbying Act
<b>LABOR, DEPARTMENT OF</b>			
*LAB-46-19-00004-P	02/01/21	NY State Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the NY State Public Employee Occupational Safety and Health Standards
LAB-49-20-00012-P	12/09/21	Sick Leave Requirements	To provide definitions and standards for the sick leave requirements contained in Section 196-b of the Labor Law
<b>LAKE GEORGE PARK COMMISSION</b>			
LGP-29-20-00006-P	09/22/21	Amendment of Stormwater Regulations within the Lake George Park	To more adequately control and minimize the pollutants found in stormwater runoff from going into Lake George
LGP-43-20-00005-P	01/12/22	Stream corridor protection regulations for the Lake George Park	To establish permit requirements and standards for the protection of stream corridors in the Lake George Park

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LAW, DEPARTMENT OF</b>			
LAW-18-20-00002-P	05/06/21	Designation of a Privacy Officer	Removal of a named Privacy Officer., along with their contact information
<b>LONG ISLAND POWER AUTHORITY</b>			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.
LPA-09-20-00010-P	exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory.	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.
LPA-28-20-00033-EP	exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
LPA-37-20-00008-P	exempt	The Authority's annual budget, as reflected in the rates and charges in the Tariff for Electric Service	To update the Tariff to implement the Authority's annual budget and corresponding rate adjustments
LPA-37-20-00009-P	exempt	Consolidated billing for community distributed generation	To modify the Tariff to offer consolidated billing options for community distributed generation consistent with the NY PSC
LPA-37-20-00010-P	exempt	To modify the RDM and DSA to address the unforeseen impact of COVID-19	To modify the Tariff to mitigate high bill impacts and allow for additional expense recovery related to a state of emergency
LPA-37-20-00011-P	exempt	New optional TOU rates as proposed in PSEG Long Island's 2018 Utility 2.0 Filing and subsequent filing updates	To incorporate best practices in TOU rate design, reduce peak load, and offer customers new rate options
LPA-37-20-00012-P	exempt	The Authority's implementation of PSL § 66-p in the Tariff for Electric Service	To update the Tariff to provide access to historical electric charges billed to a rental property
LPA-37-20-00013-EP	exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LONG ISLAND RAILROAD COMPANY</b>			
LIR-39-20-00005-ERP	09/30/21	Requiring wearing masks over the nose and mouth when using terminals, stations, and trains operated by Long Island Rail Road	To safeguard the public health and safety on terminals, stations and trains operated by Long Island Rail Road
<b>MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY</b>			
MBA-39-20-00007-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by the MaBSTOA	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
<b>MENTAL HEALTH, OFFICE OF</b>			
OMH-42-20-00011-EP	10/21/21	Comprehensive Psychiatric Emergency Programs	To provide clarify and provide uniformity relating to CPEPs and to implement Chapter 58 of the Laws of 2020
<b>METRO-NORTH COMMUTER RAILROAD</b>			
MCR-39-20-00004-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations, and trains operated by Metro-North Railroad	To safeguard the public health and safety by amending the rules to require use of masks when using Metro-North facilities
<b>METROPOLITAN TRANSPORTATION AGENCY</b>			
MTA-39-20-00009-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using the facilities and conveyances operated by MTA Bus Company	To safeguard the public health and safety by amending rules to require use of masks when using MTA Bus facilities and conveyance
<b>NEW YORK CITY TRANSIT AUTHORITY</b>			
NTA-39-20-00006-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by NYC Transit Authority	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
<b>NIAGARA FALLS WATER BOARD</b>			
*NFW-04-13-00004-EP	exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
<b>NIAGARA FRONTIER TRANSPORTATION AUTHORITY</b>			
NFT-39-20-00023-P	09/30/21	Procurement Guidelines of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc	To amend procurement guidelines to reflect changes in law and clarifying language
<b>OGDENSBURG BRIDGE AND PORT AUTHORITY</b>			
*OBA-33-18-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>OGDENSBURG BRIDGE AND PORT AUTHORITY</b>			
*OBA-07-19-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
<b>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</b>			
PDD-37-20-00004-EP	..... 09/16/21	Day Habilitation Duration	to help providers maintain capacity to operate during the public health emergency
PDD-42-20-00001-P	..... 10/21/21	Crisis Intervention Services for individuals with intellectual/developmental disabilities	Specifies qualifications for providers for the provision of these services and allowance for billing
PDD-49-20-00001-P	..... 12/09/21	Medication regimen review	Change from a semi-annual review to an annual review. Increased flexibility for providers.
<b>POWER AUTHORITY OF THE STATE OF NEW YORK</b>			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PAS-41-20-00009-P	..... exempt	Rates for the Sale of Power and Energy	To align rates and costs
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p.
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-36-14-00009-P	..... exempt	Modification to the Commission’s Electric Safety Standards.	To consider revisions to the Commission’s Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison’s low income program to include Medicaid recipients.	Whether to expand Con Edison’s low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff’s electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff’s electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company’s request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants’ request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.’s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking’s request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison’s Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison’s Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.	To ensure consumer protections for ESCO customers.
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-24-16-00009-P	..... exempt	Petition to submeter gas service.	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018.	To extend the time period between the Companies' third-party assessments of customer personally identifiable information.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan.	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report.	To consider NFGD's petition for rehearing.
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills.	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs.
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing.	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-50-17-00019-P	..... exempt	Transfer of utility property.	To consider the transfer of utility property.
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters.	To consider the disposition of tax refunds and other related matters.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity.	To consider the notice of intent of Montante/ Morgan Gates Circle LLC to submeter electricity.
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades.	To consider AEC's petition requesting resolution of their billing dispute with National Grid.
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program.	To consider TracFone's petition seeking approval to participate in Lifeline.
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspiry for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.
*PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design.	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order.	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity.
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-47-18-00008-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
*PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking.	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.
*PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.
*PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.
*PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
*PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations.	To consider the terms and conditions applicable to gas service.
*PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.
*PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
*PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
*PSC-19-19-00014-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 124 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 124 MW electric generating facility.
*PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
*PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-20-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility	Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility
*PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-39-19-00018-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges.	To provide qualifying residential customers with an optional three-part rate.
*PSC-44-19-00003-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00005-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00006-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00007-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-44-19-00009-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York.	To promote and maintain renewable electric energy resources.
*PSC-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis.	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
*PSC-48-19-00007-P	..... exempt	Extension of the State Universal Service Fund.	To continue to provide universal service at a reasonable rate in certain service territories.
PSC-50-19-00004-P	..... exempt	Petition to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-52-19-00001-P	..... exempt	SUEZ Water New York Inc.'s acquisition of 100% of Heritage Hills Water Works Corporation's assets.	To determine if the proposed acquisition is in the public interest.
PSC-52-19-00006-P	..... exempt	Authorization to defer pension settlement losses.	To address the ratemaking related to the pension settlement losses.
PSC-03-20-00009-P	..... exempt	Changes to the Utility Energy Registry	To determine appropriate rules for data availability
PSC-04-20-00014-P	..... exempt	Transfer of the Indian Point site, nuclear waste, and decommissioning and site restoration funds from Entergy to Holtec.	To protect the public interest.
PSC-07-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-10-20-00003-P	..... exempt	The Commission's statewide low-income discount policy.	To consider modifications to certain conditions regarding utility low-income discount programs.
PSC-10-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Family Energy, Inc. should be granted a waiver to offer two "green gas" products to mass market customers.
PSC-11-20-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-11-20-00008-P	..... exempt	Revisions to the proration tariff language.	To consider revisions to the proration tariff language under Leaf 18.1, 18 61 to 64 and Leaf 69.
PSC-11-20-00011-P	..... exempt	Application of the Public Service Law to owners of a proposed 345 kilovolt (kV) transmission line providing wholesale services.	To determine whether to apply a lightened regulatory regime to the owners of a proposed 345 kV transmission line.
PSC-12-20-00008-P	..... exempt	Delivery rates of Corning Natural Gas Corporation.	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020.
PSC-12-20-00010-P	..... exempt	Direct Energy, LLC's Green Gas Products.	To consider whether Direct Energy, LLC should be allowed to offer two Green Gas Products to mass market customers.
PSC-15-20-00011-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators.	To provide clarity and uniformity to the provision of gas service to electric generators.
PSC-15-20-00013-P	..... exempt	Ownership of New York American Water Company, Inc.	To consider whether a proposed transfer of ownership of New York American Water Company, Inc. is in the public interest.
PSC-16-20-00004-P	..... exempt	Disposition of a state sales tax refund.	To determine how much of a state sales tax refund should be retained by Central Hudson.
PSC-17-20-00008-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Alpha Gas & Electric, LLC should be permitted to offer its Green Gas Program to mass market customers.
PSC-18-20-00012-P	..... exempt	The purchase price of electric energy and capacity from customers with qualifying on-site generation facilities.	To revise the price to be paid by the Company under Service Classification No. 10. for qualifying purchases of unforced capacity
PSC-18-20-00015-P	..... exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program.	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program.
PSC-19-20-00004-P	..... exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements.
PSC-19-20-00005-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To provide cost recovery for new DLM programs and prevent double compensation to participating customers.
PSC-19-20-00009-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-21-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Kiwi Energy NY LLC should be permitted to offer its Green Gas Products to mass market customers.
PSC-21-20-00008-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-21-20-00011-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether IGS Energy should be allowed to offer a Carbon-Neutral Gas Product and a Home Warranty Service Product.
PSC-23-20-00006-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether IDT Energy, Inc. and Residents Energy, LLC should be permitted to offer Green Gas Products in New York.
PSC-23-20-00007-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether American Power & Gas LLC should be permitted to offer its Green Gas Products to mass market customers.
PSC-23-20-00008-P	..... exempt	Disposition of sales tax refund and other related matters.	To consider the appropriate allocation of the sales tax refund proceeds while balancing ratepayer and shareholder interests.
PSC-23-20-00010-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether AmeriChoice Energy should be permitted to offer its Green Gas Products to mass market customers.
PSC-24-20-00016-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the NRG Retail Companies should be permitted to offer Green Gas Products in New York.
PSC-24-20-00018-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Atlantic Energy, LLC should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-24-20-00020-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether CenStar Energy, Major Energy Services, and Spark Energy Gas should be permitted to offer Green Gas Products.
PSC-25-20-00009-P	..... exempt	Petition for the use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-25-20-00010-P	..... exempt	Whitepaper regarding energy service company financial assurance requirements.	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies.
PSC-25-20-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-25-20-00012-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-25-20-00014-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether South Bay Energy Corp. should be permitted to offer Green Gas Products to mass market customers in New York.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-25-20-00015-P	..... exempt	Staff whitepaper on a Data Access Framework.	To standardize the necessary privacy and cybersecurity requirements for access to energy-related data.
PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program.	To address the economic impacts of the COVID-19 pandemic.
PSC-25-20-00017-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Marathon Energy should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-25-20-00018-P	..... exempt	Staff's whitepaper proposing an IEDR.	To collect and integrate a large and diverse set of energy-related information and data on one statewide platform.
PSC-27-20-00003-P	..... exempt	To make the uniform statewide customer satisfaction survey permanent.	To encourage consumer protections and safe and adequate service.
PSC-28-20-00020-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-28-20-00022-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-28-20-00027-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioners should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-28-20-00034-P	..... exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
PSC-29-20-00008-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
PSC-29-20-00011-P	..... exempt	Petition for waiver of the requirements of Opinion No. 76-17 and 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of Opportunities for Broome, Inc for waiver of Opinion No. 76-17 and 16 NYCRR Part 96.
PSC-30-20-00006-P	..... exempt	Petition to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-31-20-00003-P	..... exempt	Authority to issue and sell promissory notes.	To consider the petition of National Fuel Gas Distribution Corporation to issue up to \$300 million in promissory notes.
PSC-31-20-00004-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-20-00008-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-20-00009-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Kiwi Energy NY LLC should be permitted to offer its Kiwi Guard product to mass market customers in New York.
PSC-31-20-00010-P	..... exempt	Submetering of electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-31-20-00011-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-32-20-00014-P	..... exempt	The term for retention of a monetary crediting methodology.	To provide sufficient revenues to support financing, realize promised benefits from the project, and repay necessary re-work.
PSC-32-20-00015-P	..... exempt	Petition for waiver of the requirements of 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of St. Paul's Center to master meter and for waiver of 16 NYCRR Part 96.
PSC-34-20-00004-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-34-20-00005-P	..... exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers.	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory.
PSC-34-20-00006-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-35-20-00015-P	..... exempt	Request for waiver of 16 NYCRR 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-35-20-00016-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-35-20-00017-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer green gas products to mass market customers in New York.
PSC-36-20-00005-P	..... exempt	The petition relates to the proposed transfer of membership interests in companies providing gas transportation services.	To consider the requested transfer and, if approved, what regulatory conditions should apply.
PSC-36-20-00006-P	..... exempt	A debt financing arrangement with respect to a proposed 345 kilovolt (kV) transmission line providing wholesale services.	To consider the requested financing arrangement, and if approved, what regulatory conditions should apply.
PSC-37-20-00006-P	..... exempt	Con Edison's petition for a proposed Non-Pipeline Solutions portfolio and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-38-20-00003-P	..... exempt	Minor Rate Filing	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-38-20-00004-P	..... exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
PSC-39-20-00014-P	..... exempt	Tariff filing.	To determine if New York State Electric & Gas Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00015-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-39-20-00016-P	..... exempt	Tariff filing.	To determine if Central Hudson Gas & Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00017-P	..... exempt	Tariff filing.	To determine if National Grid's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00018-P	..... exempt	Tariff filing.	To determine if Rochester Gas and Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00019-P	..... exempt	Tariff filing.	To determine if Orange and Rockland Utilities, Inc.'s tariff filing is consistent with the law and in the public interest.
PSC-39-20-00020-P	..... exempt	Tariff filing.	To determine if Consolidated Edison Company of New York's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00021-P	..... exempt	Authority to issue to long-term debt.	To consider Corning's request for authority to issue long-term debt.
PSC-39-20-00022-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-40-20-00003-P	..... exempt	NYSEG's petition for a proposed Non-Pipeline Alternatives portfolio of projects and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-40-20-00004-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-40-20-00005-P	..... exempt	Electric Generation Facility Cessation Mitigation Program Funding	To develop a funding mechanism for the Electric Generation Facility Cessation Mitigation Program.
PSC-40-20-00006-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-40-20-00007-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioner should be permitted to offer green gas and home warranty products to mass market customers.
PSC-40-20-00008-P	..... exempt	A benefit for electric utility customers in communities that host a major renewable energy facility.	To consider a just and reasonable benefit for electric utility customers in renewable host communities.
PSC-40-20-00009-P	..... exempt	Amendments clarifying the sharing of revenue from the Energy Storage Program.	To ensure that Con Edison's tariff is clear regarding sharing of revenue when annual wholesale revenues exceed contract costs.
PSC-40-20-00010-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioner should be permitted to offer green gas and home warranty products to mass market customers.
PSC-41-20-00010-P	..... exempt	Disposition of a \$50 million municipal tax refund	To consider a disposition of a municipal tax refund for customer and company benefit

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-41-20-00011-P	..... exempt	Major gas rate filing.	To consider a proposed increase in Conring's gas delivery revenues of approximately \$6.3 million (23.4% in total revenues).
PSC-41-20-00012-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-41-20-00013-P	..... exempt	The proposed transfer of a Certificate of Environmental Compatibility and Public Need.	Consideration of whether the proposed transfer is in the public interest.
PSC-42-20-00006-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$41.8 million (or 9.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-42-20-00007-P	..... exempt	Transfer of ownership interests and facilities associated with three nuclear generating units, funds, and storage facilities.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfer to serve the public interest.
PSC-42-20-00008-P	..... exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations.
PSC-42-20-00009-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$100.4 million (or 3.2% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-20-00003-P	..... exempt	The use of \$50 million to support residential and commercial customers experiencing financial hardship	To consider whether the proposed support of ratepayers is in the public interest
PSC-44-20-00004-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-44-20-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-20-00006-P	..... exempt	Transfer of property interests in the Union Falls Hydroelectric Facility.	To determine whether to authorize the transfer of the Union Falls Hydroelectric Facility and the proper accounting treatment.
PSC-44-20-00007-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 90.5 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 90.5 MW electric generating facility.
PSC-44-20-00008-P	..... exempt	Lease of right-of-way and transfer of facilities.	To determine whether to authorize lease of right-of-way, transfer of facilities and the proper accounting treatment.
PSC-44-20-00009-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-44-20-00010-P	..... exempt	Transfer of natural gas pipeline facilities and ownership interests in those facilities, and an applicable regulatory regime.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfers and the facility owners.
PSC-45-20-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-45-20-00004-P	..... exempt	Major gas rate filing	To consider an increase in Central Hudson's gas delivery revenues

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-45-20-00005-P	..... exempt	Major electric rate filing	To consider an increase in Central Hudson's electric delivery revenues
PSC-45-20-00006-P	..... exempt	Petition to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-46-20-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-46-20-00005-P	..... exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service.	To determine if approving the DPS Staff's recommendations is in the public interest.
PSC-46-20-00006-P	..... exempt	Amendments to the SIR.	To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.
PSC-46-20-00007-P	..... exempt	Compliance of New York Transco LLC with the applicable portions of the Electric Safety Standards.	To consider the petition of New York Transco LLC for clarification of its responsibilities under the Electric Safety Standards.
PSC-46-20-00008-P	..... exempt	Compliance report by electric utilities on developing distribution and local transmission in accordance with the AREGCB Act.	To support distribution and local transmission investments necessary to achieve the the State's climate goals.
PSC-46-20-00009-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-47-20-00006-P	..... exempt	Notice of intent to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-47-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00004-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers.
PSC-48-20-00006-P	..... exempt	PSC regulations 16 NYCRR 86.3(a)(2); 86.3(a)(2)(iv) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-48-20-00007-P	..... exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-48-20-00008-P	..... exempt	Proposed modifications to Rider T - Commercial Demand Response Program.	To consider revisions to Rider T - CDRP for the 2021 Capability Period.
PSC-48-20-00009-P	..... 12/02/21	Siting of major transmission facilities in new or existing rights of way that qualify for expedited process.	To establish expedited requirements for the siting, construction and operation of major transmission facilities.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-49-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-49-20-00008-P	..... exempt	Amendments to modify provisions related to Emergency Electric Generators under General Information Section III (H).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-49-20-00009-P	..... exempt	Transfer of certain electric transmission facilities and easements.	To determine whether to authorize the proposed transfers and the proper accounting treatment.
PSC-49-20-00010-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-50-20-00004-P	..... exempt	Proposed transfer of the Company's assets to the Purchasers.	To determine if transfer of the water system to the Purchasers is in the public interest.
<b>STATE, DEPARTMENT OF</b>			
DOS-37-20-00015-P	..... 09/16/21	Siting of major renewable energy facilities	To establish procedural requirements for permits for siting, construction and operation of major renewable energy facilities
DOS-37-20-00016-P	..... 11/29/21	Siting permits for major renewable energy facilities	To establish uniform standards and conditions for siting, design, construction & operation of major renewable energy facilities
DOS-41-20-00001-P	..... 10/14/21	Public Playground Safety	Update public playground safety standards
DOS-48-20-00010-P	..... 12/02/21	Procedures and requirements related to the filing of certificates by the Department of State's Division of Corporations	To clarify and update procedures related to the filing of certificates with the Division of Corporations
<b>STATE UNIVERSITY OF NEW YORK</b>			
SUN-53-19-00005-P	..... 02/01/21	Proposed amendments to the traffic and parking regulations at State University Agricultural and Technical College at Morrisville	Amend existing regulations to update traffic and parking regulations
SUN-29-20-00004-EP	..... 07/22/21	State basic financial assistance for the operating expenses of community colleges under the program of SUNY and CUNY	To modify limitations formula for basic State financial assistance and remove an operating support "floor"
SUN-29-20-00005-EP	..... 07/22/21	Student Assembly Elections, Student Assembly Officers, Campus Government Elections, Student Activity Fees	To postpone voting on student activity fees and elections of Student Assembly representatives and officers until Fall 2020
SUN-37-20-00002-EP	..... 09/16/21	Appointment of Employees; Eligibility	To allow for the addition of one year to the service limits for current faculty to attain continuing appointment
<b>STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY</b>			
SIR-39-20-00008-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations and trains operated by SIRTOA.	To safeguard the public health and safety by amending rules to require the use of masks when using terminals and stations.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>TAXATION AND FINANCE, DEPARTMENT OF</b>			
TAF-02-20-00001-EP	02/01/21	Property tax levy limits for school districts in relation to certain costs resulting from capital local expenditures	To implement Education Law 2023-a relating to certain costs resulting from capital local expenditures of school districts
TAF-38-20-00005-P	09/23/21	New York State and City of Yonkers withholding tables and other methods	To provide current New York State and City of Yonkers withholding tables and other methods
TAF-46-20-00003-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-16-20-00012-P	04/22/21	New York State Combined Application Project (NYSCAP)	To implement the NYSCAP, a new combined application project for recipients of Supplemental Security Income benefits, who have been designated as Live-Alone by the Social Security Administration and the State-funded SSI State Supplement Program
TDA-26-20-00007-P	07/01/21	Supplemental Security Income (SSI) Additional State Payments	To clarify who participates, the intended uses for benefits, that benefits won't be issued once a death is verified, time frames to report and circumstances when underpayment/retroactive benefits will issue, and NYS operates SSP under State rules
TDA-39-20-00024-EP	09/30/21	Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)	These regulatory amendments set forth the federally-approved SUAs as of 10/1/20
TDA-46-20-00002-P	11/18/21	Payment access cards	To update State regulations pertaining to payment access cards to align with Part V of Chapter 56 of the Laws of 2020
<b>THRUWAY AUTHORITY, NEW YORK STATE</b>			
THR-42-20-00013-P	10/21/21	Amend the Authority's rules in relation to Grand Island Bridges sidewalks and Governor Mario M Cuomo Bridge Shared Use Path	To regulate certain activities on the Grand Island Bridges sidewalks and Governor Mario M Cuomo Bridge Shared Use Path
<b>TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY</b>			
TBA-50-20-00005-P	exempt	A proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA	A proposal to raise additional revenue
<b>WORKERS' COMPENSATION BOARD</b>			
WCB-23-20-00004-P	06/10/21	EDI system updates	To require carriers to report certain credits taken for payments to claimants; biannual reports; EDI 3.1 updates
WCB-28-20-00003-EP	07/15/21	Adding COVID-19 diagnosis by a health care provider as a serious health condition for purposes of Paid Family Leave	To clarify that employees may take PFL to care for a family member with COVID-19
WCB-42-20-00004-P	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00005-P	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs

**Action Pending Index****NYS Register/December 16, 2020**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>WORKERS' COMPENSATION BOARD</b>			
WCB-42-20-00010-P	10/21/21	Requesting prior approval for medical treatment and care	To implement an internet portal-based submission and review process
WCB-42-20-00012-P	10/21/21	DME Fee Schedule	To replace DME fee schedule, update fees; create prior authorization process
WCB-48-20-00002-EP	12/02/21	Reimbursement for COVID-19 testing	To allow reimbursement for COVID-19 testing when benefits are sought due to workplace exposure to COVID-19

# RULE REVIEW

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## Department of Civil Service Five Year Review of Existing Regulations

Pursuant to section 207 of the State Administrative Procedure Act (SAPA), notice is hereby provided of rules adopted by the New York State Civil Service Commission and President of the Commission during calendar years 2001, 2006, 2011 and 2016.

Contained herein is a brief description of each rule, including the statutory authority therefor, and a statement setting forth the justification for the ongoing need for each rule and its proposed continuation without further modification.

Rules Adopted in Calendar Year 2001

Amendment to Chapter I of Title 4 of NYCRR (Rules for the Classified Service)

Statutory Authority: Civil Service Law section 64(4)

Description of the Rule: The rule repealed prior sections 4.11 and 4.12 and added a new section 4.11.

The rule describes the rights and limitations of “contingent permanent” appointments to positions in the competitive, non-competitive and labor classes.

Proposed Action: The rule has functioned consistent with the purposes underlying its adoption and shall be continued without modification.

Amendments to Chapter II of Title 4 of NYCRR (Attendance Rules for Employees in New York State Departments and Institutions)

Statutory Authority: Civil Service Law section 6

Description of the Rules: The rules amended sections 28-1.3(b), 28-2.1(c) and 28-3.7(a) and (c) upon the request of the Governor’s Office of Employee Relations (GOER) to provide that qualified managerial/confidential employees may utilize up to 200 days of accrued sick leave credits to pay for health insurance premiums during retirement.

The amendments to sections 28-3.7(a) and (c) provide that the rules governing donations of leave credits for managerial/confidential employees shall be consistent with such leave donation policies granted represented employees through collective bargaining agreements.

Proposed Action: The rule has functioned consistent with the purposes underlying its adoption and shall be continued without modification.

Rules Adopted in Calendar Year 2006

Amendment to Chapter I of Title 4 of NYCRR (Rules for the Classified Service)

Statutory Authority: Civil Service law section 63

Description of the Rule: The rule revised section 4.5 to provide for probationary terms for positions of University Police Officer 1 and University Police Officer 1 (Spanish Language) of not less than 52 nor more than 78 weeks.

Proposed Action: The rule has functioned consistent with the purposes underlying its adoption and shall be continued without modification.

Amendment to Chapter V of the Title 4 of NYCRR (Regulations of the Department of Civil Service [President’s regulations])

Statutory Authority: Public Officers Law sections 87, 89

Description of the Rule: Public Officers Law Article 6 (Freedom of Information Law; “FOIL”) requires subject agencies to adopt regulations regarding public access to records. In accordance with FOIL, the regulation specifies how requests shall be acknowledged and addresses when the Department is unable to grant or deny a request for records within the initial twenty-day period from when the request is received.

Proposed Action: The rule is required by the Public Officers Law and shall be continued without modification.

Rules Adopted in Calendar Year 2011

Amendment to Chapter V of the Title 4 of NYCRR (Regulations of the Department of Civil Service [President’s regulations])

Statutory Authority: Civil Service Law sections 80, 80-a

Description of the Rule: The rule amended section 72.1 to designate units for suspension, demotion or displacement for employees in the Agency Law Enforcement Services bargaining unit of the Department of Environmental Conservation.

Proposed Action: This rule is consistent with the operative collective bargaining agreement for subject employees and shall be continued without modification.

Amendment to Chapter V of the Title 4 of NYCRR (Regulations of the Department of Civil Service [President’s regulations])

Statutory Authority: Civil Service Law 164

Description of the Rule: This rule amended section 73.2(e) to clarify that the President of State Civil Service Commission, as head of the State Department of Civil Service, may disqualify a dependent of a covered employee or retiree who has secured or attempted to secure participation in the health insurance plan or benefits under the plan authorized by Civil Service Law Art. 11 personally or for another by fraud, deception or a false statement of a material fact, or who has accepted benefits personally or for another knowing s/he was not entitled thereto.

Proposed Action: The rule has functioned consistent with the purposes underlying its adoption and shall be continued without modification.

Rules Adopted During Calendar Year 2016

No current amendments to Title 4 of NYCRR were adopted during calendar year 2016.

Public Comments

There will be a forty-five (45) day public comment period following publication of this notice. Requests for information and public comments regarding the foregoing may be directed to:

J. Marc Hannibal, Special Counsel

NYS Department of Civil Service

Empire State Plaza, Albany, NY 12239

Telephone: (518) 473-2624

E-mail address: marc.hannibal@cs.ny.gov



# ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

## SEALED BIDS

WORK  
HVAC  
Manhattan Psychiatric Center  
Wards Island, New York County

Sealed bids for Project No. M3150-H, comprising a contract for HVAC Work NYS Police Wards Island, Manhattan Psychiatric Center, 600 E. 125th Street, Wards Island (New York County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the New York State Police, until 2:00 p.m. on Wednesday, December 30, 2020, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$21,600 for H).

Further, Wicks Exempt Projects require a completed form BDC 59 (Wicks Exempt List of Contractors) be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$250,000 and \$500,000 for H.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller (“Restricted Period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewykyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 98 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11,

2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

\_\_\_\_\_ Project commenced design before January 1, 2020. Not subject to provision.

X  Project commenced design on or after January 1, 2020. Subject to provision.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link for ordering and payment instructions: <https://ogs.ny.gov/design-construction/construction-contractors>

For questions about purchase of bid documents, please send an e-mail to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewykyj, Deputy Director*  
OGS - Design & Construction Group

**PROVIDE/ADD/RENOVATE  
FORENSIC IDENTIFICATION UNIT BUILDING/  
HEADQUARTERS BUILDING  
New York State Police  
Salt Point, Dutchess County**

Sealed bids for Project No. 45649-C, 45649-H, 45649-P and 45649-E, comprising separate contracts for Construction Work, HVAC Work, Plumbing Work, and Electrical Work, Provide Forensic Identification Unit Building & Headquarters Building Addition/Renovations, New York State Police, 2541 Route 44, Salt Point (Dutchess County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the New York State Police, until 2:00 p.m. on Wednesday, January 6, 2021 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$321,900 for C, \$90,000 for H, \$36,700 for P, and \$54,200 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$10,000,000 and \$15,000,000 for C, between \$3,000,000 and \$4,000,000 for H, between \$500,000 and \$1,000,000 for P, and between \$1,000,000 and \$2,000,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 822 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

- Project commenced design before January 1, 2020. Not subject to provision.
- Project commenced design on or after January 1, 2020. Subject to provision.

The only time prospective bidders will be allowed to visit the job

site to take field measurements and examine existing conditions of the project area will be at 8:00 a.m. or 10:00 a.m. or 1:00p.m. on either December 15th or December 16th, 2020 at 2541 Route 44, Salt Point, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Theresa Swehla (845-691-8968) a minimum of 96 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and Electrical Work, and an overall goal of 20% for MWBE participation, 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for HVAC Work and Plumbing Work. The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj, Deputy Director*  
OGS - Design & Construction Group

**REPAIR  
FLOODWALL  
Village of Ellenville  
Ellenville, Ulster County**

Sealed bids for Project No. 45955-C, comprising a contract for Construction Work, Floodwall Repairs, Ellenville, Village of Ellenville, Ellenville (Ulster County) NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Environmental Conservation-Div. of Operations, until 2:00 p.m. on Wednesday, December 30, 2020 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security

(i.e. certified check, bank check, or bid bond in the amount of \$22,400 for C).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$250,000 and \$500,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller (“Restricted Period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewycky, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 170 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewycky*, Deputy Director  
OGS - Design & Construction Group

**REPLACE  
HANDICAP RAMP/LOADING DOCK  
Building 56  
West Brentwood, Suffolk County**

Sealed bids for Project No. 46043-C, comprising a contract for Construction Work, Handicap Ramp and Loading Dock Replacement, Building 56, Building 56, 998 Crooked Hill Road, West Brentwood (Suffolk County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, December 30, 2020, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$22,800 for C).

Further, Wicks Exempt Projects require a completed form BDC 59 (Wicks Exempt List of Contractors) be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$250,000 and \$500,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller (“Restricted Period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewycky, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 234 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for in-

flation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link for ordering and payment instructions: <https://ogs.ny.gov/design-construction/construction-contractors>

For questions about purchase of bid documents, please send an e-mail to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj, Deputy Director*  
OGS - Design & Construction Group

# NOTICE OF AVAILABILITY OF STATE AND FEDERAL FUNDS

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## Division of Homeland Security and Emergency Services

1220 Washington Ave.  
State Campus, Bldg. 7A  
Albany, NY 12242

### UNITS OF LOCAL GOVERNMENTS WITHIN TARGETED COUNTIES

#### **FY 2019 Critical Infrastructure Grant Program**

Fiscal Year 2019 Critical Infrastructure Grant Program seeks applications for up to \$50,000 from Federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES) for critical infrastructure protection. The FY 2019 Critical Infrastructure Grant Program (CIGP) advances a common understanding of risk management. Applicants select a government owned critical infrastructure, mass gathering/ special event site and complete a risk assessment. First responders assess their capability to prevent and protect against attacks on the site. Grant funding is then applied to mitigate vulnerabilities identified in the risk assessment or enhance first responder's capabilities.

The priority focus for the FY 2019 CIGP is government owned critical infrastructure, mass gathering/ special event sites. Examples of critical infrastructure sites include, but are not limited to, government office buildings (city/town halls), emergency services (emergency operations centers, 911 centers, police or fire stations), water systems (water treatment facilities, water distribution, wastewater treatments) or government owned stadiums. Examples of mass gathering sites include, government property, where events such as, but not limited to, major community festivals, races, concerts or games are held. These events must be reoccurring (but not necessarily the same event) and located or held on government owned or leased property that has definable geographic boundaries; the event or location must pose special security concerns, such a population surges and other factors that require additional law enforcement or emergency resources.

Only units of local government within targeted counties are eligible to apply for the FY 2019 CIGP. Units of local governments include: counties, cities, towns, and/or villages. Applicants must be located in New York City or one of the following targeted counties: Albany, Broome, Dutchess, Erie, Herkimer, Livingston, Madison, Monroe, Nassau, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Tioga, Wayne, Westchester, and Yates. The application must be coordinated with at least two (2) agencies with prevention and/or protection responsibilities at the selected site. These must be law enforcement, fire department, emergency management, or public works agencies.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhses.ny.gov/grants/targeted.cfm> or contact the DHSES Grants Hotline at (866) 837-9133.

## Division of Homeland Security and Emergency Services

1220 Washington Ave.  
State Campus, Bldg. 7A  
Albany, NY 12242

ALL NEW YORK STATE COUNTIES AS WELL AS UNITS OF LOCAL GOVERNMENT TO INCLUDE CITIES, TOWNS, AND/OR VILLAGES THAT ARE REGISTERED MEMBERS OF THE MULTI-STATE INFORMATION SHARING AND ANALYSIS CENTER

#### **FY 2019 Cyber Security Grant Program**

Fiscal Year 2019 Cyber Security Grant Program (CSGP) seeks applications for up to \$50,000 from Federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES). The purpose of this grant opportunity is to aid New York State's local jurisdictions in enhancing their ability to protect, identify, respond to and recover from cyber incidents through funding of eligible planning, equipment, training and exercise costs.

The five objectives of this grant are to: 1) To provide New York State local jurisdictions with the resources and equipment necessary to prevent disruption of the confidentiality, integrity and availability of their information systems; 2) To assess cyber security risks, identify vulnerabilities and determine capability gaps with the focus of allocating resources to address the most critical needs; 3) To ensure that local jurisdictions are equipped with the knowledge and resources necessary for providing cyber security awareness training to their staff in support of good cyber hygiene at the user level; 4) To develop actionable cyber security plans that focus on response and immediate remediation to a cyber incident, and; 5) To encourage the participation in established cyber security support networks and utilization of the vast amount of resources available to local governments.

All New York State counties as well as units of local government to include cities, towns, and/or villages that are registered members of the Multi-State Information Sharing and Analysis Center (MS-ISAC) are eligible to apply for the FY2019 CSGP.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhses.ny.gov/grants/targeted.cfm> or DHSES's Grant Hotline at (866) 837-9133.

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## Division of Homeland Security and Emergency Services

1220 Washington Ave.  
State Campus, Bldg. 7A  
Albany, NY 12242

LOCAL, COUNTY AND TRIBAL LAW ENFORCEMENT AGENCIES WITH AN ACTIVE ROAD PATROL COMPONENT OF THEIR LAW ENFORCEMENT OPERATIONS AND WHO CURRENTLY AND/OR PREVIOUSLY MANAGED A DCJS OR NYS

**CERTIFIED EXPLOSIVE DETECTION CANINE TEAM WITHIN THE LAST FIVE YEARS**

**FY 2019 Explosive Detection Canine Team Grant Program**

Fiscal Year 2019 Explosive Detection Canine Team Grant Program seeks applications for up to \$50,000 from Federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES) for programs to develop and support explosive detection canine team capabilities.

The six primary objectives of this grant are: 1.) The advancement of explosive detection canine team capabilities; 2.) The certification of explosive detection canine teams and compliance with annual recertification requirements; 3.) Participation in DHS's Office for Bombing Prevention's (DHS-OBP) Explosive Detection Canine Capability Analysis Program; 4.) Alignment to New York State's thirteen FBI Accredited bomb squads; 5.) Use of the Bomb Arson Tracking System (BATS); and, 6.) Promotion of regional partnerships in the development of mutual explosive detection canine team capabilities. Grants will be awarded to support local, county and Tribal law enforcement agencies with an active road patrol component of their law enforcement operations and who currently and/or previously managed a DCJS or NYS certified explosive detection canine team within the last five (5) years.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhSES.ny.gov/grants/targeted.cfm> or contact DHSES's Grants Hotline at (866) 837-9133.

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**Division of Homeland Security and Emergency Services**

1220 Washington Ave.  
State Campus, Bldg. 7A  
Albany, NY 12242

LOCAL, COUNTY AND TRIBAL LAW ENFORCEMENT AGENCIES WITH AN ACTIVE TACTICAL TEAM AS PART OF THEIR LAW ENFORCEMENT OPERATIONS THAT RESPONDS TO CALLS FOR SERVICE OUTSIDE OF A CORRECTIONAL SETTING AND HAVE BEEN CERTIFIED BY DCJS OR HAVE A PENDING APPLICATION FOR CERTIFICATION WITH DCJS

**FY 2019 Tactical Team Grant Program**

Fiscal Year 2019 Tactical Team Grant Program seeks applications for up to \$75,000 from Federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES). The primary focus of this year's grant opportunity is to improve a tactical team's response capabilities through the attainment and sustainment of the SWAT Team Standards that were developed and approved by the New York State Division of Criminal Justice Services (DCJS) through the Municipal Police Training Council (MPTC).

Grants will be awarded to local, county, and tribal law enforcement agencies with an active tactical team as part of their law enforcement operations that responds to calls for service outside of a correctional setting AND have been certified by DCJS or have a pending application for certification with DCJS. The four primary objectives of this grant are to: 1) Advance tactical team capabilities through the attainment and sustainment of the minimum standards within this community; 2) Encourage and support training among law enforcement specialty teams to include bomb squads and explosive detection canine teams; 3) Promote regional partnerships in the development and build-out of mutual tactical team capabilities, and 4) Participate in DHS's Office for Bombing Prevention's (DHS-OBP) SWAT Capability Analysis Program.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES

website at <http://www.dhSES.ny.gov/grants/targeted.cfm> or contact DHSES's Grant Hotline at (866) 837-9133.

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**Division of Homeland Security and Emergency Services**

1220 Washington Ave.  
State Campus, Bldg. 7A  
Albany, NY 12242

LOCAL EMERGENCY RESPONSE TEAMS THAT PROVIDE TECHNICAL RESCUE & USAR SERVICES COUNTYWIDE OR REGIONALLY

**FY 2019 Technical Rescue & USAR Team Grant Program**

Fiscal Year 2019 Technical Rescue & USAR Team Grant Program seeks applications for up to \$225,000 from Federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES). The focus of this grant opportunity is to develop and support Technical Rescue & USAR team capabilities.

Grants will be awarded to counties on behalf of local emergency response teams that provide Technical Rescue & USAR services countywide or regionally. The four primary objectives of this grant are to: 1) Advance Technical Rescue & USAR capabilities statewide; 2) Develop Regional Response Partnerships to enhance multi-county response capabilities; 3) Encourage the development and maintenance of county-level Technical Rescue/USAR plans; and 4) Assess and standardize Technical Rescue and USAR Resources through participation in the DHSES Office of Fire Prevention and Control's Technical Rescue/USAR Accreditation program.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhSES.ny.gov/grants/targeted.cfm> or contact DHSES's Grants Hotline at (866) 837-9133.

# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE

### GreenNY Interagency Committee on Sustainability and Green Procurement

Pursuant to Executive Order No. 4: Establishing a State Green Procurement and Agency Sustainability Program, April 24, 2008 ("EO 4"), the Interagency Committee on Sustainability and Green Procurement hereby gives public notice of the following:

Four green specifications were tentatively approved by the Interagency Committee on Sustainability and Green Procurement and have been posted for public comment.

These include new or amended specifications on the following topics:

Apparel and Textile Materials, Coating Removal Products, Garment Cleaning, and Laundry Detergent.

All of the above specifications are available for viewing at: <https://ogs.ny.gov/greenny/executive-order-4-tentatively-approved-specifications>

Information regarding the green specification approval process is also available at the above link.

Comments may be submitted electronically to: [GreenEO4@ogs.ny.gov](mailto:GreenEO4@ogs.ny.gov)

Comments from the public regarding the tentatively approved specifications will be accepted until Friday, March 19, 2021.

## PUBLIC NOTICE

### Department of Health MRT 1115 Waiver Extension Request

In compliance with 42 CFR 431.408(a)(2)(ii) as well as the current MRT Waiver Special Terms and Conditions regarding the annual Public Forum requirement, the Department of Health is pleased to announce that it will conduct two virtual public hearings/public forums, to provide an overview of the State's 1115 waiver extension request and allow members of the public to provide comments. This notice

further serves to open the 30-day public comment period which will close on Friday, January 15, 2021. In addition to this 30-day comment period where the public will be afforded the opportunity to provide written comments, the Department of Health will be hosting two virtual public hearings during which the public may provide oral comments. Any updates related to the public hearings and forum will be sent via the MRT ListServ.

The New York State Department of Health ("NYSDOH") is requesting a three-year extension of the existing Section 1115 Medicaid Redesign Team ("MRT") waiver demonstration, which is set to expire on March 31, 2021. This extension proposal seeks an extension of all current programs and authorities in the State's current waiver demonstration, with the following two programmatic amendments:

• Carveout of the Non-Emergency Medical Transportation (NEMT) Benefit for Managed Long-Term Care Members to Fee-For-Service: The goals of this amendment request are as follows:

o Improve administrative simplification by creating a consistently managed transportation benefit and removing the benefit from the MRT Waiver;

o Reduce cost-risk by shifting the broker arrangement to a risk-based arrangement; and

o Create a larger pool of members by combining all members, except PACE for which the transportation benefit must be managed by the PACE Organization under federal rules, for brokers to provide NEMT service to.

• Carveout of Pharmacy Benefits from Medicaid Managed Care to Fee-For-Service. The goals of this amendment request are as follows:

o Provide the State with full visibility into prescription drug costs;

o Centralize and leverage negotiation power;

o Provide a single drug formulary with standardized utilization management protocols; and

o Address the growth of the 340B program and associated reductions in State rebate revenue.

These amendments were developed by the State's Medicaid Redesign Team II (MRT II), and are part of a larger, more comprehensive set of reforms that the State is planning to innovate and improve the Medicaid program. MRT II brought together a comprehensive set of stakeholders to collectively find solutions that improve the delivery of care and outcomes for Medicaid members and contain spending growth in the Medicaid program.

The two virtual public hearing/public forum meetings will be held as follows:

1. First Public Hearing/Public Forum

a. Thursday, January 21, 2021 from 1-4pm.

b. Pre-registration is required for anyone wishing to provide oral comment using this link: <https://meetny.webex.com/meetny/onstage/g.php?MTID=eafaac7a7545ec85e7a621bdc99cdb98d>.

c. Individuals who wish to provide comment will need to register with an "SP" in front of their name (ex: SP Jane Doe) and must email [1115waivers@health.ny.gov](mailto:1115waivers@health.ny.gov) no later than Wednesday, January 20, 2021 at 4pm to confirm registration.

d. Individuals will speak in their order of registration. We kindly request that all comments be limited to five minutes per presenter to ensure that all public comments may be heard.

## 2. Second Public Hearing/Public Forum

a. Wednesday, January 27, 2021 from 1-4pm.

b. Pre-registration is required for anyone wishing to provide oral comment using this link: <https://meetny.webex.com/meetny/onstage/g.php?MTID=eb77f943a1d8bfdd61a0caba29cf338bf>

c. Individuals who wish to provide comment will need to register with an "SP" in front of their name (ex: SP Jane Doe) and must email 1115waivers@health.ny.gov no later than Tuesday, January 26, 2021 at 4pm to confirm registration.

d. Individuals will speak in their order of registration. We kindly request that all comments be limited to five minutes per presenter to ensure that all public comments may be heard.

A draft of the proposed MRT Waiver extension request available for review at: [https://www.health.ny.gov/health\\_care/medicaid/redesign/mrt2/ext\\_request/index.htm](https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/ext_request/index.htm).

Due to COVID-19 pandemic, the Department of Health offices are operating at a reduced in-person capacity. For individuals with limited online access and require special accommodation to access paper copies, please call (518) 473-0919. While the State will be accepting physical written comments due to COVID-19, comments submitted electronically by email is preferred.

Prior to finalizing the proposed MRT Waiver extension application, the Department of Health will consider all written and verbal comments received. These comments will be summarized and addressed in the final version that is submitted to CMS. The Department will post a transcript of the public hearings, as well as any submitted written public comments, on the following website: [https://www.health.ny.gov/health\\_care/medicaid/redesign/mrt2/ext\\_request/index.htm](https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/ext_request/index.htm).

Please direct all questions to 1115waivers@health.ny.gov.

Written comments will be accepted by email at 1115waivers@health.ny.gov or by mail at Department of Health, Office of Health Insurance Programs, Waiver Management Unit, 99 Washington Ave., 7th Fl., Suite 720, Albany, NY 12210.

All comments must be postmarked or emailed by 30 days of the date of this notice.

## PUBLIC NOTICE

Department of Health

## MRT 1115 Waiver Extension Request

In compliance with 42 CFR 431.408(a)(1) as well as the current MRT Waiver Special Terms and Conditions regarding the annual Public Forum requirement, the New York State Department of Health is pleased to announce that it will conduct two virtual public hearings/public forums, to provide an overview of the State's 1115 waiver extension request and allow members of the public to provide comments. This notice further serves to open the 30-day public comment period which will close on Friday, January 15, 2021. In addition to this 30-day comment period where the public will be afforded the opportunity to provide written comments, the Department of Health will be hosting two virtual public hearings during which the public may provide oral comments. Any updates related to the public hearings and forum will be sent via the MRT ListServ.

The two virtual public hearing/public forum meetings will be held as follows:

## 1. First Public Hearing/Public Forum

a. Thursday, January 21, 2021 from 1-4pm.

b. Pre-registration is required for anyone wishing to provide oral comment using this link: <https://meetny.webex.com/meetny/onstage/g.php?MTID=eafaac7a7545ec85e7a621bdc99cdb98d>.

c. Individuals who wish to provide comment will need to register with an "SP" in front of their name (ex: SP Jane Doe) and must email 1115waivers@health.ny.gov no later than Wednesday, January 20, 2021 at 4pm to confirm registration.

d. Individuals will speak in their order of registration. We kindly request that all comments be limited to five minutes per presenter to ensure that all public comments may be heard.

## 2. Second Public Hearing/Public Forum

a. Wednesday, January 27, 2021 from 1-4pm.

b. Pre-registration is required for anyone wishing to provide oral comment using this link: <https://meetny.webex.com/meetny/onstage/g.php?MTID=eb77f943a1d8bfdd61a0caba29cf338bf>

c. Individuals who wish to provide comment will need to register with an "SP" in front of their name (ex: SP Jane Doe) and must email 1115waivers@health.ny.gov no later than Tuesday, January 26, 2021 at 4pm to confirm registration.

d. Individuals will speak in their order of registration. We kindly request that all comments be limited to five minutes per presenter to ensure that all public comments may be heard.

Prior to finalizing the proposed MRT Waiver extension application, the Department of Health will consider all written and verbal comments received. These comments will be summarized and addressed in the final version that is submitted to CMS.

## Extension Proposal Summary and Objectives

The New York State Department of Health ("NYSDOH") is requesting a three-year extension of the existing Section 1115 Medicaid Redesign Team ("MRT") waiver demonstration, which is set to expire on March 31, 2021. This extension proposal seeks an extension of all current programs and authorities in the State's current waiver demonstration, with the following two programmatic amendments:

- Carveout of the Non-Emergency Medical Transportation (NEMT) Benefit for Managed Long-Term Care Members to Fee-For-Service: The goals of this amendment request are as follows:

- o Improve administrative simplification by creating a consistently managed transportation benefit and removing the benefit from the MRT Waiver;

- o Reduce cost-risk by shifting the broker arrangement to a risk-based arrangement; and

- o Create a larger pool of members by combining all members, except PACE for which the transportation benefit must be managed by the PACE Organization under federal rules, for brokers to provide NEMT service to.

- Carveout of Pharmacy Benefits from Medicaid Managed Care to Fee-For-Service. The goals of this amendment request are as follows:

- o Provide the State with full visibility into prescription drug costs;

- o Centralize and leverage negotiation power;

- o Provide a single drug formulary with standardized utilization management protocols; and

- o Address the growth of the 340B program and associated reductions in State rebate revenue.

These amendments were developed by the State's Medicaid Redesign Team II (MRT II), and are part of a larger, more comprehensive set of reforms that the State is planning to innovate and improve the Medicaid program. MRT II brought together a comprehensive set of stakeholders to collectively find solutions that improve the delivery of care and outcomes for Medicaid members and contain spending growth in the Medicaid program.

## Eligibility, Benefits, and Cost-Sharing Changes

This extension proposal, inclusive of the two proposed amendments, contains no changes to eligibility, scope of benefits, or cost-sharing requirements. The two proposed amendments simply shift the administration and delivery of the two identified benefits by carving out these two benefits from the Medicaid Managed Care delivery systems to Fee-For-Service in the State Plan.

## Enrollment and Fiscal Projections

Please see the Appendix at the end of this Issue for the Enrollment and Fiscal Projections.

## Hypotheses and Evaluation

In July 1997, New York State (the "State") received approval from the Centers for Medicare and Medicaid Services ("CMS") for its "Partnership Plan" Medicaid Section 1115 Demonstration (the "1115 Demonstration"). In implementing the 1115 Demonstration, the State sought to achieve the following goals:

- Improve access to health care for the Medicaid population;

- Improve the quality of health services delivered;
- Expand access to family planning services; and
- Expand coverage to additional low-income New Yorkers with resources generated through managed care efficiencies.

The primary purpose of the Demonstration was to enroll a majority of the State’s Medicaid population into managed care; to use a managed care delivery system to deliver benefits to Medicaid recipients; to create efficiencies in the Medicaid program, and enable the extension of coverage to certain individuals who would otherwise be without health insurance. The MRT Waiver continues to meet the goals and objectives that were established at the initial approval of the demonstration.

The current hypotheses for the aforementioned goals are:

- The MRT Waiver will improve access to health care for the Medicaid population;
- The MRT Waiver will improve the quality of health services delivered;
- The MRT Waiver will expand access to family planning services; and
- The MRT Waiver will expand coverage to additional low-income New Yorkers with resources generated through managed care efficiencies.

Waiver and Expenditure Authorities

As specified in the MRT Waiver extension application, the State requests a continuation of the following waiver and expenditure authorities to operate the demonstration:

Waiver Authority	Reason and Use of Waiver Authority
1. Extension of Existing Demonstration Section 1115(a)	a. To the extent necessary to enable the State to extend the existing waiver for an additional three years.
2. Statewideness Section 1902(a)(1)	a. To permit New York to geographically phase in the Managed Long-Term Care (MLTC) program and the Health and Recovery Plans (HARP) and to phase in Behavioral Health (BH) Home and Community Based Services (HCBS) into HIV Special Needs Plans (HIV SNP).
3. Comparability Section 1902(a)(10), section 1902(a)(17)	a. To enable New York to apply a more liberal income standard for individuals who are deinstitutionalized and receive HCBS through the managed long-term care program than for other individuals receiving community-based long-term care. b. To the extent necessary to permit New York to waive cost sharing for non-drug benefit cost sharing imposed under the Medicaid State Plan for members enrolled in the Mainstream Medicaid Managed Care Plan (MMMC) – including Health and Recovery Plans (HARP) and HIV SNPs – and who are not otherwise exempt from cost sharing in § 447.56(a)(1).

Waiver Authority

4. Amount, Duration & Scope Section 1902(a)(10)(B)

5. Freedom of Choice Section 1902(a)(23)(A)

6. Reasonable Promptness Section 1902(a)(8)

Title XIX Requirements Not Applicable to Self-Direction Pilot Program (see Expenditure Authority 6, “Self-Direction Pilot”)

7. Direct Payment to Providers Section 1902(a)(32)

Reason and Use of Waiver Authority

c. Family of One Non-1915 Children, or “Fo1 Children” – To allow the State to target eligibility to, and impose a participation capacity limit on, medically needy children under age 21 who are otherwise described in 42 CFR § 435.308 of the regulations who: 1) receive Health Home Comprehensive Care Management under the State Plan in replacement of the case management services such individuals formerly received through participation in New York’s NY #.4125 1915(c) waiver and who no longer participate in such waiver due to the elimination of the case management services, but who continue to meet the targeting criteria, risk factors, and clinical eligibility standard for such waiver; and 2) receive HCBS 1915(c) services who meet the risk factors, targeting criteria, and clinical eligibility standard for the above-identified 1915(c) waiver. Individuals who meet either targeting classification will have excluded from their financial eligibility determination the income and resources of third parties whose income and resources could otherwise be deemed available under 42 CFR § 435.602(a)(2)(i). Such individuals will also have their income and resources compared to the medically needy income level (MNIL) and resource standard for a single individual, as described in New York’s State Medicaid Plan.

a. To enable New York to provide behavioral health (BH) HCBS services, whether furnished as a State Plan benefit or as a demonstration benefit to targeted populations that may not be consistent with the targeting authorized under the approved State Plan, in amount, duration and scope that exceeds those available to eligible individuals not in those targeted populations.

a. To the extent necessary to enable New York to require members to enroll in Managed Care Organizations, including the Mainstream Medicaid Managed Care (MMMC), and MLTC (excluding individuals designated as “Long-Term Nursing Home Stays”) and HARPs programs in order to obtain benefits offered by those plans. Members shall retain freedom of choice of family planning providers.

a. To enable the State to limit the number of medically needy Fo1 Children not otherwise enrolled in the Children’s 1915(c) waiver.

a. To the extent necessary to permit the State to make payments to members enrolled in the Self Direction Pilot Program to the extent that such funds are used to obtain self-directed HCBS LTC services and supports.

The State is requesting the use of the same expenditure authorities as approved in the existing 1115 demonstration, except for expenditure authority to provide incentive payments and planning grants for the previously numbered Expenditure Authority 7, Delivery System Incentive Reform Payment (DSRIP) program, which are expiring in March of 2020, or previously numbered Expenditure Authority 6, Designated State Health Program Funding, which expired in 2020.

While the State is not requesting the use of the DSRIP Expenditure Authority, CMS provided additional authority to provide DSRIP administration and a schedule of PPS payments until 2021, this additional authority is not part of this extension request. The State requests the continuation of the remaining expenditure authorities and are as follows:

Expenditure Authority	Reason and Use of Expenditure Authority
1. Demonstration-Eligible Populations.	<p>Expenditures for healthcare related costs for the following populations that are not otherwise eligible under the Medicaid State Plan:</p> <p>a. Demonstration Population 2 (TANF Adult). Temporary Assistance for Needy Families (TANF) Recipients. Expenditures for health care related costs for low-income adults enrolled in TANF. These individuals are exempt from receiving a MAGI determination in accordance with § 1902(e)(14)(D)(i)(I) of the Act.</p> <p>b. Demonstration Population 9 (HCBS Expansion). Individuals who are not otherwise eligible, are receiving HCBS, and who are determined to be medically needy based on New York's medically needy income level, after application of community spouse and spousal impoverishment eligibility and post-eligibility rules consistent with section 1924 of the Act.</p> <p>c. Demonstration Population 10 (Institution to Community). Expenditures for health care related costs for individuals moved from institutional nursing facility settings to community settings for long term services and supports who would not otherwise be eligible based on income, but whose income does not exceed the income standard described in STC 4(c) of section IV, and who receive services through the managed long term care program under the demonstration.</p> <p>d. Included in Demonstration Population 12 (Fo1 Children)- Medically needy children Fo1 Demonstration children under age 21 with a waiver of 1902(a)(10)(C)(i)(III) who meet the targeting criteria, risk factors, and clinical eligibility standard for #NY.4125 waiver including ICF, NF, or Hospital Level of Care (LOC) who are not otherwise enrolled in the Children's 1915(c).</p>
2. Twelve-Month Continuous Eligibility Period.	<p>a. Expenditures for health care related costs for individuals who have been determined eligible under groups specified in Table 1 of STC 3 in Section IV for continued benefits during any periods within a twelve-month eligibility period when these individuals would be found ineligible if subject to redetermination. This authority includes providing continuous coverage for the Adult Group determined financially eligible using Modified Adjusted Gross Income (MAGI) based eligibility methods. For expenditures related to the Adult Group, specifically, the State shall make a downward adjustment of 2.6 percent in claimed expenditures for federal matching at the enhanced federal matching rate and will instead claim those expenditures at the regular matching rate.</p>

Expenditure Authority  
3. Facilitated Enrollment Services.

4. Demonstration Services for Behavioral Health Provided under Mainstream Medicaid Managed Care (MMMC).

5. Targeted Behavioral Health (BH) HCBS Services.

6. Self-Direction Pilot.

Reason and Use of Expenditure Authority

a. Expenditures for enrollment assistance services provided by managed care organizations (MCO), the costs for which are included in the claimed MCO capitation rates.

a. Expenditures for provision of residential addiction services, crisis intervention and licensed behavioral health practitioner services to MMMC members only and are not provided under the State Plan [Demonstration Services 9].

a. Expenditures for the provision of BH HCBS services under Health and Recovery Plans (HARP) and HIV Special Needs Plans (SNP) that are not otherwise available under the approved State Plan [Demonstration Services 8].

a. Expenditures to allow the State to make self-direction services available to HARP and HIV/SNP members receiving BH HCBS or children meeting targeting criteria for the Children's 1915(c) Waiver and in MMMC receiving HCBS under the Children's Waiver. The program will be in effect from January 1, 2017 through March 31, 2021 [Demonstration Services 8].

#### Submission and Review of Public Comments

A draft of the proposed MRT Waiver extension request available for review at: [https://www.health.ny.gov/health\\_care/medicaid/redesign/mrt2/ext\\_request/index.htm](https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/ext_request/index.htm)

Due to COVID-19 pandemic, the Department of Health offices are operating at a reduced in-person capacity. For individuals with limited online access and require special accommodation to access paper copies, please call (518) 473-0919. While the State will be accepting physical written comments due to COVID-19, comments submitted electronically by email is preferred.

Prior to finalizing the proposed MRT Waiver extension application, the Department of Health will consider all written and verbal comments received. These comments will be summarized in the final submitted version. The Department will post a transcript of the public hearings, as well as any submitted written public comments, on the following website: [https://www.health.ny.gov/health\\_care/medicaid/redesign/mrt2/ext\\_request/index.htm](https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/ext_request/index.htm).

Please direct all questions to [1115waivers@health.ny.gov](mailto:1115waivers@health.ny.gov).

Written comments will be accepted by email at [1115waivers@health.ny.gov](mailto:1115waivers@health.ny.gov) or by mail at Department of Health, Office of Health Insurance Programs, Waiver Management Unit, 99 Washington Ave., 7th Fl., Suite 720, Albany, NY 12210.

All comments must be postmarked or emailed by 30 days of the date of this notice.

## PUBLIC NOTICE

New York City

### Deferred Compensation Plan

The New York City Deferred Compensation Plan (the "Plan") is seeking qualified vendors to provide emerging markets equity investment management services for the International Equity Fund ("the Fund") investment option of the Plan. Qualified vendors that do not currently provide product capabilities to eVestment must submit product information to NEPC, LLC at the following email address: [acohen@nepc.com](mailto:acohen@nepc.com). Please complete the submission of product information no later than 4:30 P.M. Eastern Time on December 23, 2020.

Consistent with the policies expressed by the City, proposals from certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with certified minority-owned and/or women-owned firms are encouraged. Additionally, proposals from small and New York City-based businesses are also encouraged.

**PUBLIC NOTICE**

Department of State  
F-2020-0679

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0679 -Marcelo Buitrago- proposes to install a 4-pile boat lift and 2-pile dual personal watercraft lift at 3230 Hewlett Avenue in the Town of Merrick, Nassau County, East Bay.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0679ConsistCert.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or December 31, 2020.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

**PUBLIC NOTICE**

Department of State  
F-2020-0746

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0746.pdf>

In F-2020-0746, or the "Walsh Residential Dock", the applicant – Brian Walsh – proposes to install a 3 foot by 16 foot ramp leading to an 8 foot by 20 foot float with two mooring piles the proposed ramp will be placed waterward of the existing dock.

The purpose of the proposed project is to provide recreational enhancement. The project is located at 875 West Park Avenue in the City of Long Beach, Nassau County Reynolds Channel.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, January 15, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

**PUBLIC NOTICE**

Department of State  
F-2020-0750

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations Department provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0750.pdf>

In F-2020-0750, or the "Long Beach WPCP Consolidation Project", the applicant – Nassau County Department of Public Works – proposes the conversion of the Long Beach WPCP's headworks and influent pump to a flow diversion pump station, construction of a force main using horizontal directional drilling (HOD) construction method, and tying in the force main to the Bay Park STP's influent header.

"The purpose of the Consolidation Project is to pump sewage from the Long Beach barrier island to the Bay Park Sewerage Treatment Plant (STP) for treatment. This Consolidation Project, paired with an existing project, the Bay Park Conveyance Project (where a new sewage line from the Bay Park STP to the Cedar Creek WPCP is being planned), would allow treated effluent from Bay Park STP to be discharged via the existing permitted Cedar Creek ocean outfall, thereby reducing the stress on an already impaired body of water (the Western Bays)." The project is located on Long Beach in the City of Long Beach, Nassau County under Reynolds Channel, Hog Island Channel and East Rockaway Channel.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, December 31, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

**PUBLIC NOTICE**

Department of State  
F-2020-0773

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0773.pdf>

In F-2020-0773, or the "Olcott Harbor Breakwater", the applicant – Town of Newfane – proposes to construct a small offshore breakwater, approximately 400 feet in length approximately 500 feet north of the ends of the existing piers, which would either be a steel sheet pile cellular structure, or a rubble mound stone structure. In addition, the applicant proposes to line both the inside and outside of the existing federal piers and extend the piers with rubble mound stone.

"The purpose of the Project is to provide wave attenuation with the

construction of an offshore breakwater and lining and extending the existing piers, which would provide protection for the harbor, adjoining properties, and associated infrastructure, as well as to provide overall calmer harbor conditions and safer navigation between the piers." The project is located at the Olcott Harbor in the Town of Newfane, Niagara County on Lake Ontario.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, December 31, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-0793

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0793 or the "Surfside Motel Bulkhead Maintenance", the applicant Vincent Luccisano, is maintaining an existing bulkhead by supporting the foundation with installation of expansive polyurethane foam injections sourced from a NYSDEC approved vendor. The proposed location of the project is at 64-33 Cross Bay Boulevard, Howard Beach, Shellbank Basin.

The applicant's consistency certification and supporting information are available for review at: [http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0793\\_V\\_LuccisanoAPP.pdf](http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0793_V_LuccisanoAPP.pdf)

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, January 15, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-0817

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0817-Samantha Roopnarine proposes the removal and in-place reconstruction of approximately 52 linear feet of Navy Style

bulkhead and two 8-foot returns. Raise bulkhead up to 18". Remove and replace landward wood decks as required. Install new 4' x 40' wood pier. Install new 4-pile boat lift and 1-pile jet skis lift. Dredge an area 5 feet out from the bulkhead to 4 feet below MLW for up to 25 cubic yards and use the resultant material as backfill behind the bulkhead with an additional 20 cy of clean fill.

Town of Hempstead, Nassau County, South Oyster Bay

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0817ConsistCert.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or December 31, 2020.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2020-0837 (DA)

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The US Army Corps of Engineers New York District has determined that the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the New York State Coastal Management Program. The applicant's consistency determination and accompanying supporting information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue in Albany, New York.

In F-2020-0837, the applicant, the U.S. Army Corps of Engineers New York District, is proposing to conduct maintenance dredging of critical shoal areas within the Rockaway Inlet that will be dredged to -20 feet Mean Lower Low Water, removing approximately 500,000 CY of sand. Dredged sand will be placed at the western most Rockaway Ocean Sand Borrow Area, located 5 nautical miles east of Rockaway Inlet, NY. This project is located at the Jamaica Bay Federal Navigation Channel, Rockaway Inlet, NY.

The applicant's consistency determination and supporting information are available for review at: [http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0837\(DA\).pdf](http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0837(DA).pdf)

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- New York City Local Waterfront Revitalization Program: <https://www.dos.ny.gov/opd/programs/lwrp.html>

Additional public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or December 31, 2020.

*Comments should be addressed to:* Department of State, Office of Planning, Development & Community Infrastructure, One Commerce

Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations.

**PUBLIC NOTICE**

Department of State  
F-2020-0945

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant’s consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2020-0945, John Keogh is proposing to construct a new fixed pier catwalk dock attached to the existing bulkhead. The proposed dock will consist of 4’ x 125’ fixed pier catwalk elevated 26” above the Mean Highwater mark extending out into Moriches Bay. The waterward end of the dock will consist of a 4’ x 24’ elevated fixed pier catwalk in a “L” arrangement. The project site is located a 29 Fiske Avenue, West Hampton Beach, NY 11978, Suffolk County.

The applicant’s consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-945Keogh.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or January 15, 2021.

*Comments should be addressed to:* Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

**PUBLIC NOTICE**

Department of State  
F-2020-1016

Date of Issuance – December 16, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-1016 or the “Sherman Creek Community Boathouse”, the applicant Row New York, is constructing a NEW Boathouse with a footprint of 8,989 sf on land; multipurpose boat apron space and path providing dock access; connection of new underground utility lines to existing lines; and installing 295 x 12 ft floating dock with connected 28 x 40 ft floating platform and 72 x 16 ft gangway leading to the shore at the boat apron location. The dock will be supported by fifteen 14-inch diameter steel pipe piles filled with flowable concrete. The proposed location of the project is at 3703 Harlem River Drive, Manhattan, New York County, Harlem River.

The applicant’s consistency certification and supporting information are available for review at: [http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-1016\\_RowNewYork\\_App.pdf](http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-1016_RowNewYork_App.pdf)

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, January 15, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

**PUBLIC NOTICE**

Department of State  
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020-0543 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the height under a girder/soffit. Involved is an existing one-family dwelling located at 43 Hawkins Road, Stony Brook, Town of Brookhaven, NY 11790 County of Suffolk, State of New York.

2020-0545 Matter of Margaret Parry, 174 Grove Avenue, Patchogue, NY 11772, for a variance concerning safety requirements, including the ceiling height. Involved is an existing one-family dwelling located at 174 Grove Avenue, Patchogue, Town of Brookhaven, NY 11772 County of Suffolk, State of New York.

**PUBLIC NOTICE**

Department of State  
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020-0557 In the matter of Charles Ross, New York State Office of General Services, Design and Construction, 34th Fl., Corning Tower ESP, Albany, NY 12242, for NYS Department of Transportation, concerning building code and fire safety requirements to the Berkshire Maintenance Patrol Facility located at 12902 State Route 38, Town of Berkshire, County of Tioga, State of New York.

2020-0558 In the matter of Ryan Goodfellow, for Whitlock Partners LTD., concerning building code and fire safety requirements to the proposed Whitlock building located at 476-480 South Salina Street, City of Syracuse, County of Onondaga, State of New York.



# EXECUTIVE ORDERS

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**Executive Order No. 202.76: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive, contained in Executive Orders 202.36, 202.37, 202.46, 202.47, 202.54, 202.58, 202.59, 202.65, as continued and contained in Executive Order 202.70 for another thirty days through December 19, 2020, except:

- Pursuant to Executive Order 202.72, all suspensions of the Family Court Act shall remain in effect until December 18, 2020 and thereafter continue to remain in effect for those juvenile delinquency matters not involving a detained youth and for those child abuse and neglect proceedings not involving children that have been removed from their homes.
- Notwithstanding any contrary provision in the Criminal Procedure Law, any appearance at a criminal proceeding may be conducted virtually by electronic appearance with the consent of the parties, including but not limited to bench trials, evidentiary hearings, CPL 440 hearings, and/or probation or parole violation hearings.

IN ADDITION, I hereby temporarily suspend or modify the following from the date of this Executive Order through December 19, 2020:

- Sections 1205, 1263 and 1266 of the Public Authorities Law, to the extent necessary to permit the relevant public authorities to receive comments concerning proposed fare, toll, rental, rate, charge or other fee adjustments through public hearings held remotely and through use of telephone conference, video conference, and/or other means of transmission, including acceptance of public comments electronically or by mail, and to permit all required documentation and records to be available in an electronic format on the internet and upon request;

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this nineteenth day of November in the year two thousand twenty.

*BY THE GOVERNOR*

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

*Secretary to the Governor*



# APPENDIX

The following Appendix was filed with a Public Notice for the Department of Health published in this issue of the State Register.

## Enrollment and Fiscal Projections

This 1115 extension proposal is expected to have no or nominal impact on annual Medicaid enrollment, and is further expected to be budget neutral. The tables below illustrate historical caseloads and costs of the current waiver (Exhibit 1), as well as projected caseloads and costs of the demonstration as proposed (Exhibit 2).

### Exhibit 1: Historical Caseloads and Costs (in total computable dollars) \*

Demonstration Year	DY18	DY19	DY20	DY21*	DY22*
Historical Caseload**	4,903,302	4,883,361	5,170,656	5,472,989	5,738,303
Historical Cost	\$47,739,999,038	\$47,739,999,038	\$47,739,999,038	\$47,739,999,038	\$47,739,999,038

\*Includes projected data.

\*\*Total historical cost figures as reported in the CY2020 Q3 submission of the Budget Neutrality Reporting Tool, VWW Spending Total Tab.

\*\*Caseload is based on total Member Months reported /12 (CY2020 Q3 submission of the Budget Neutrality Reporting Tool, MemMon Total Tab).

### Exhibit 2: Projected Caseloads and Costs (in total computable dollars) \*

Demonstration Year	DY23	DY24	DY25
<b>Projected Caseload of the Demonstration</b>	<b>4.9 million</b>	<b>4.9 million</b>	<b>4.9 million</b>
<i>MLTC Transportation Carveout Only</i>	0	n/a	n/a
<i>Pharmacy Carveout Only</i>	0	n/a	n/a
<b>Projected Cost</b>	<b>\$51.2 billion</b>	<b>\$53.5 billion</b>	<b>\$ 56.0 billion</b>
<i>MLTC Transportation Carveout Only</i>	\$16.6 million	n/a	n/a
<i>Pharmacy Carveout Only**</i>	\$698.1 million	n/a	n/a

\*The numbers above represent projected caseload and costs for the entire waiver proposal, as well as specific details related to the two proposed amendments.

\*\*MLTC Transportation and Pharmacy Carveouts will not impact membership as neither carveout affects member eligibility.

\*\*\*The costs below do not include a projection for MEG 9 (HCBS Expansion) and MEG 10 (Institute to Community).

